

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
: Case No. 1:16-CR-075  
:   
vs. : (Judge Kane)  
:   
CHRISTOPHER MARK HEATH, :  
Defendant :

TRANSCRIPT OF JURY SELECTION & TRIAL PROCEEDINGS  
VOLUME 1  
PAGES 1 THROUGH 178

BEFORE THE HONORABLE YVETTE KANE  
UNITED STATES DISTRICT COURT JUDGE  
MAY 8, 2017; 10:15 A.M.  
HARRISBURG, PENNSYLVANIA

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1           THE COURT: Good morning, prospective jurors, and  
2 welcome to the Middle District of Pennsylvania. We're here  
3 this morning to hear the case of *United States v. Christopher*  
4 *Mark Heath*. Is the government ready to proceed?

5           MS. TAYLOR: We are, Your Honor.

6           THE COURT: Is the defendant ready to proceed?

7           MS. ULRICH: Yes, Your Honor.

8           THE COURT: All right. Ms. Weida, would you please  
9 swear the jury.

10          (*Prospective jurors sworn.*)

11          THE COURT: Prospective jurors, are you all able to  
12 hear me? Okay. If at any time you can't hear me or the  
13 lawyers, I want you to alert us to that fact. We're going to  
14 streamline the jury selection process in the case by using the  
15 questionnaires that you all have with you. Does everybody have  
16 the questionnaire? Terrific. Okay.

17          I'm going to ask you a series of questions. The  
18 purpose of my questions is, first of all, to make sure that all  
19 of the jurors who are being considered by the parties in the  
20 case are legally qualified to serve. And then the other thing  
21 we'll do is ask questions that will assist the lawyers in  
22 exercising their individual judgment with respect to what we  
23 call peremptory challenges, challenges for which no reason need  
24 be given.

25          As I said, this is a criminal case. We expect that

1 the case will take no more than two, possibly two and a half  
2 days. Is there anybody who has been called for service who  
3 would not be able to be with us through Wednesday morning?

4 Is there anybody who has an important medical  
5 appointment that can't be rescheduled or travel plans that  
6 would take you out of the state? Good. Okay.

7 Juror Number 1 -- and, jurors, we're going to refer to  
8 each of you by your numbers to preserve your privacy, and we'll  
9 begin with the jury questionnaires beginning with Juror 1.

10 Juror Number 1, I see from your questionnaire that you  
11 did serve on a jury previously.

12 *PROSPECTIVE JUROR:* Yes.

13 *THE COURT:* About three years ago?

14 *PROSPECTIVE JUROR:* Yes, ma'am.

15 *THE COURT:* Was that in state court?

16 *PROSPECTIVE JUROR:* County.

17 *THE COURT:* Sorry?

18 *PROSPECTIVE JUROR:* It was in county.

19 *THE COURT:* In county court. Do you remember what  
20 kind of case it was?

21 *PROSPECTIVE JUROR:* I believe a civil.

22 *THE COURT:* A civil case?

23 *PROSPECTIVE JUROR:* I believe so, yes.

24 *THE COURT:* Do you remember anything about the case?

25 *PROSPECTIVE JUROR:* Yes, I do.

1           *THE COURT:* What can you tell me?

2           *PROSPECTIVE JUROR:* Basically it was an inmate,  
3 basically an inmate in York County Prison, and he was caught  
4 with a cellphone, so it was basically the correctional officers  
5 in the State of Pennsylvania against the inmate over a  
6 cellphone.

7           *THE COURT:* Okay. And I'm never going to ask any  
8 juror what the verdict was in the case, but I do want to know  
9 if you deliberated to verdict. So was there a verdict in that  
10 case?

11          *PROSPECTIVE JUROR:* Yes.

12          *THE COURT:* In that particular case, the judge would  
13 have given you some instructions on the law that applies to the  
14 case. I'll be doing that here.

15          The instructions that I'll give you in a civil case  
16 will be very different from anything that you would have heard  
17 in that other case, and your oath will require you to set aside  
18 what you might have heard earlier and follow the instructions  
19 that I give you on the law. Any problem with doing that here?

20          *PROSPECTIVE JUROR:* No, Your Honor.

21          *THE COURT:* Is there any other reason why you could  
22 not serve and be a fair and impartial juror in the case?

23          *PROSPECTIVE JUROR:* No.

24          *THE COURT:* Okay. Terrific. Juror Number 2, you also  
25 had prior jury service?

1           *PROSPECTIVE JUROR:* Correct.

2           *THE COURT:* And where was that?

3           *PROSPECTIVE JUROR:* Maryland.

4           *THE COURT:* What kind of case was it?

5           *PROSPECTIVE JUROR:* It was a theft, so is that  
6 criminal?

7           *THE COURT:* A criminal case. And I see that you  
8 deliberated to verdict. Any issues with that?

9           *PROSPECTIVE JUROR:* No.

10          *THE COURT:* All right. Thank you. Juror Number 3,  
11 prior jury service?

12          *PROSPECTIVE JUROR:* Yes.

13          *THE COURT:* In 1990?

14          *PROSPECTIVE JUROR:* Approximately.

15          *THE COURT:* Okay.

16          *PROSPECTIVE JUROR:* I'm not sure anymore.

17          *THE COURT:* Do you remember much about the case?

18          *PROSPECTIVE JUROR:* Yes. It was a drunk driving case.

19          *THE COURT:* You indicated that someone in your  
20 household had a lawsuit --

21          *PROSPECTIVE JUROR:* Yes.

22          *THE COURT:* -- involving an injury.

23          *PROSPECTIVE JUROR:* Yes.

24          *THE COURT:* Was that brought here in the Middle  
25 District?

1           *PROSPECTIVE JUROR:* Yes, it was.

2           *THE COURT:* Has it concluded?

3           *PROSPECTIVE JUROR:* Yes.

4           *THE COURT:* Was it to your satisfaction?

5           *PROSPECTIVE JUROR:* No.

6           *THE COURT:* Was there a trial?

7           *PROSPECTIVE JUROR:* Yes.

8           *THE COURT:* In what courtroom was it, do you remember?

9           *PROSPECTIVE JUROR:* It wasn't this room. It was in  
10 2000. I don't remember which number the courtroom was.

11          *THE COURT:* Do you remember who presided?

12          *PROSPECTIVE JUROR:* No, I don't. It was a lady judge.

13          *THE COURT:* It wasn't me?

14          *PROSPECTIVE JUROR:* No, it wasn't.

15          *THE COURT:* No? Okay. I think I would have  
16 remembered that. All right. As I said, this is a criminal  
17 case, and the instructions will be very different, everything  
18 will be very different. The number of jurors is different, our  
19 processes are very different.

20               Do you think that that unfortunate experience would  
21 prohibit you from following my instructions on this case and  
22 being a fair and impartial juror to both sides?

23          *PROSPECTIVE JUROR:* I don't think it would have any  
24 effect.

25          *THE COURT:* Okay. You told me on your questionnaire

1 that someone close to you is employed in law enforcement.

2 *PROSPECTIVE JUROR:* Well, he's a criminal defense  
3 attorney.

4 *THE COURT:* Who is that?

5 *PROSPECTIVE JUROR:* My next-door neighbor.

6 *THE COURT:* Your next-door neighbor?

7 *PROSPECTIVE JUROR:* Yes.

8 *THE COURT:* Can you tell us his name?

9 *PROSPECTIVE JUROR:* Mr. McGowan.

10 *THE COURT:* Terry McGowan?

11 *PROSPECTIVE JUROR:* Yes.

12 *THE COURT:* Okay. Do you have an opportunity to talk  
13 to him about his cases?

14 *PROSPECTIVE JUROR:* In a general sense, yes.

15 *THE COURT:* All right. He's appeared in this court  
16 many times, and, as you said, he's a defense attorney. Do you  
17 think those discussions would influence you to make you more  
18 favorable to the government or more favorable to the defendant  
19 in the case?

20 *PROSPECTIVE JUROR:* I think it depends on the  
21 presentation of the case.

22 *THE COURT:* What do you mean by that?

23 *PROSPECTIVE JUROR:* We've talked a lot about some of  
24 the general cases that he's had, and it's just experience, just  
25 the items that we've gone over. And I can't tell you what kind



1 of opinion I'm going to form until I hear this case.

2 *THE COURT:* Okay. In other words, you're keeping an  
3 open mind until you hear the evidence?

4 *PROSPECTIVE JUROR:* Yes.

5 *THE COURT:* That's what I'm going to call upon all of  
6 the jurors to do. Before we go further and speak with Juror  
7 Number 4, let me just tell you a little bit about this case.

8 As I've told you, this is a criminal case. It comes  
9 before you by reason of an indictment, which is a formal  
10 document that the government uses to bring charges against a  
11 defendant and upon which it bases its case.

12 The defendant, Christopher Mark Heath, has pleaded not  
13 guilty to the charges and has thereby raised issues of fact to  
14 be tried by you, the jury.

15 The sole purpose of an indictment is to serve as an  
16 accusation or charge that the government makes against a  
17 defendant. It serves to inform a defendant of the crimes with  
18 which he is charged. The indictment serves no other trial  
19 purpose whatsoever. It is not evidence against the accused,  
20 and it raises no inference of guilt.

21 As I will instruct you, the government has the burden  
22 of proof to establish guilt beyond a reasonable doubt.

23 I want to now summarize for you the charges against  
24 the defendant in this case. The specific charges are that  
25 Mr. Christopher Mark Heath is guilty of conspiracy to

1 manufacture, distribute, and possess with the intent to  
2 manufacture and distribute marijuana.

3 The government has also charged conspiracy to commit  
4 money laundering, manufacture, distribution, and possession  
5 with intent to manufacture and distribute marijuana, and the  
6 government has charged possession of a firearm in furtherance  
7 of a drug trafficking crime.

8 This is a brief overview of the indictment. The  
9 specific charges will be explained to you in greater detail  
10 later when the trial is underway. Jurors, is there anyone who  
11 before coming to court today has heard anything about these  
12 charges? Okay.

13 Juror Number 4, I see that you, according to your  
14 questionnaire, have had no prior jury service.

15 *PROSPECTIVE JUROR:* Correct.

16 *THE COURT:* And in answer to the questions on the  
17 reverse of the form, all of the answers are no?

18 *PROSPECTIVE JUROR:* Correct.

19 *THE COURT:* Okay. Juror Number 5, the same thing, no  
20 prior jury service?

21 *PROSPECTIVE JUROR:* Correct.

22 *THE COURT:* No lawsuits?

23 *PROSPECTIVE JUROR:* No.

24 *THE COURT:* And no familiarity or close association  
25 with anyone in law enforcement?

1           *PROSPECTIVE JUROR:* No.

2           *THE COURT:* Okay. Thank you.

3           *PROSPECTIVE JUROR:* You're welcome.

4           *THE COURT:* Juror Number 6, someone close to you is  
5 employed in law enforcement?

6           *PROSPECTIVE JUROR:* Yes, my brother-in-law.

7           *THE COURT:* Jurors, make sure that the lawyers are  
8 also able to hear you. Did you say your brother-in-law?

9           *PROSPECTIVE JUROR:* Yes. He's a police officer.

10          *THE COURT:* And where is he employed?

11          *PROSPECTIVE JUROR:* Lower Allen.

12          *THE COURT:* Sorry?

13          *PROSPECTIVE JUROR:* Lower Allen.

14          *THE COURT:* Lower Allen Township Police Department?

15          *PROSPECTIVE JUROR:* Yes.

16          *THE COURT:* How long has he been on the force there?

17          *PROSPECTIVE JUROR:* I'm not sure.

18          *THE COURT:* How long has he been your brother-in-law?

19          *PROSPECTIVE JUROR:* Eight years.

20          *THE COURT:* Has he always been a police officer?

21          *PROSPECTIVE JUROR:* Yes.

22          *THE COURT:* Do you talk to him about his cases?

23          *PROSPECTIVE JUROR:* Occasionally.

24          *THE COURT:* Do you know whether or not he has  
25 prosecuted or been a witness or a charging officer in any

1 offenses involving drugs and guns?

2 *PROSPECTIVE JUROR:* I do not know.

3 *THE COURT:* Is there anything about your association  
4 with him, having heard the charges in this case, that you think  
5 would keep you from being a fair and impartial juror to both  
6 sides?

7 *PROSPECTIVE JUROR:* No.

8 *THE COURT:* All right. Thank you. Juror Number 7,  
9 you indicated that someone close to you had been arrested,  
10 charged, or convicted of a crime?

11 *PROSPECTIVE JUROR:* That is correct.

12 *THE COURT:* Is that something you can talk comfortably  
13 about in open court?

14 *PROSPECTIVE JUROR:* Yeah. My brother-in-law, he was  
15 convicted of crimes against children.

16 *THE COURT:* And where was he convicted?

17 *PROSPECTIVE JUROR:* Lebanon County.

18 *THE COURT:* That was a state court prosecution then?

19 *PROSPECTIVE JUROR:* Yes, ma'am.

20 *THE COURT:* How long ago was that?

21 *PROSPECTIVE JUROR:* Twenty years, plus twenty years.

22 *THE COURT:* Did you feel that the system was fair to  
23 him?

24 *PROSPECTIVE JUROR:* Yes.

25 *THE COURT:* You indicated also that someone close to

1 you was victimized?

2 *PROSPECTIVE JUROR:* That is correct.

3 *THE COURT:* Is that in relation to the offense we're  
4 talking about here?

5 *PROSPECTIVE JUROR:* Yes.

6 *THE COURT:* Okay. And who was the victim of that  
7 crime?

8 *PROSPECTIVE JUROR:* It was my brother.

9 *THE COURT:* You indicated in answer to the last  
10 question that you had been involved in the investigation of a  
11 crime, and it sounds like that might be the same case, as well.

12 *PROSPECTIVE JUROR:* Yes.

13 *THE COURT:* And then was there another case in York,  
14 Pennsylvania?

15 *PROSPECTIVE JUROR:* It was a -- my previous employer,  
16 I was a manager at a department store, and we had a big theft  
17 case, so I was a witness for the theft case.

18 *THE COURT:* All right. Do any of those experiences,  
19 you think, make you more or less inclined towards one side or  
20 the other in this case, having heard none of the evidence yet?

21 *PROSPECTIVE JUROR:* No.

22 *THE COURT:* You think you can be fair and follow my  
23 instructions on the law?

24 *PROSPECTIVE JUROR:* Yes.

25 *THE COURT:* Okay. Terrific. Thank you. Juror Number

1 8, prior jury duty, where was that?

2 *PROSPECTIVE JUROR:* York County.

3 *THE COURT:* What kind of case was it, sir?

4 *PROSPECTIVE JUROR:* I really didn't get on the jury.  
5 I was there for jury duty, but I didn't get on any case.

6 *THE COURT:* So you were there for a few days in the  
7 courthouse. We don't do that here. If there's not another  
8 case in the courthouse, the jurors who are not to be serving  
9 here will be released and your jury service will be complete.  
10 So nobody close to you is involved in law enforcement?

11 *PROSPECTIVE JUROR:* No.

12 *THE COURT:* Okay. Juror Number 9, no jury service?

13 *PROSPECTIVE JUROR:* No, Your Honor.

14 *THE COURT:* No law enforcement in the family?

15 *PROSPECTIVE JUROR:* No.

16 *THE COURT:* No lawsuits?

17 *PROSPECTIVE JUROR:* Nope.

18 *THE COURT:* Okay. Good. Juror Number 10, you served  
19 as a juror previously in a criminal case that went to verdict?

20 *PROSPECTIVE JUROR:* Yes, ma'am.

21 *THE COURT:* What kind of case was that?

22 *PROSPECTIVE JUROR:* It was a criminal case. It had to  
23 do with a father disciplining his son in public.

24 *THE COURT:* Was that in York County?

25 *PROSPECTIVE JUROR:* Yes, ma'am.

1           *THE COURT:* Even though it was a criminal case, in  
2 this case, the instructions will be tailored to the facts of  
3 the case and they'll be different and you'll be called upon to  
4 follow my instructions setting aside anything you might have  
5 heard before. Any problem with that?

6           *PROSPECTIVE JUROR:* No, ma'am.

7           *THE COURT:* Thank you. Juror Number 11, no prior jury  
8 service?

9           *PROSPECTIVE JUROR:* That is correct.

10          *THE COURT:* Okay. Thank you. And you indicated that  
11 you had been involved in a local investigation involving some  
12 vandalism?

13          *PROSPECTIVE JUROR:* Correct.

14          *THE COURT:* And was that concluded to your  
15 satisfaction?

16          *PROSPECTIVE JUROR:* Yes, it was.

17          *THE COURT:* All right. Thank you. Juror Number 12,  
18 good morning.

19          *PROSPECTIVE JUROR:* Good morning.

20          *THE COURT:* No prior jury service?

21          *PROSPECTIVE JUROR:* Well, actually, I think I had a  
22 senior moment, I'm sorry. In the early '80s, I served on a  
23 grand jury in the State of New Jersey.

24          *THE COURT:* Was that a positive experience?

25          *PROSPECTIVE JUROR:* Um-hum.

1           *THE COURT:* How long is jury service in New Jersey  
2 when you're called for grand jury?

3           *PROSPECTIVE JUROR:* From what I remember, I think it  
4 was only maybe a month, six weeks, one week -- or one day a  
5 week.

6           *THE COURT:* Any particular kinds of cases that you  
7 might have heard that you can remember?

8           *PROSPECTIVE JUROR:* No.

9           *THE COURT:* Okay. And no law enforcement in the  
10 family?

11          *PROSPECTIVE JUROR:* No.

12          *THE COURT:* Juror Number 13.

13          *PROSPECTIVE JUROR:* Hi.

14          *THE COURT:* Good morning. No prior jury service?

15          *PROSPECTIVE JUROR:* No.

16          *THE COURT:* No law enforcement?

17          *PROSPECTIVE JUROR:* No.

18          *THE COURT:* No lawsuits?

19          *PROSPECTIVE JUROR:* No.

20          *THE COURT:* All right. Juror Number 14, where did you  
21 serve as a juror?

22          *PROSPECTIVE JUROR:* New Bloomfield.

23          *THE COURT:* New Bloomfield?

24          *PROSPECTIVE JUROR:* Yes.

25          *THE COURT:* That's Perry County?



1           *PROSPECTIVE JUROR:* Um-hum.

2           *THE COURT:* What kind of case?

3           *PROSPECTIVE JUROR:* I'm not sure if it was civil or  
4 criminal.

5           *THE COURT:* What was it about?

6           *PROSPECTIVE JUROR:* Drugs.

7           *THE COURT:* It involved drugs?

8           *PROSPECTIVE JUROR:* Drugs and theft.

9           *THE COURT:* Drugs and --

10          *PROSPECTIVE JUROR:* Theft.

11          *THE COURT:* Someone died?

12          *PROSPECTIVE JUROR:* Theft.

13          *THE COURT:* Oh, theft. Someone stole drugs?

14          *PROSPECTIVE JUROR:* Someone stole money to buy drugs.

15          *THE COURT:* All right. And there was a verdict in the  
16 case?

17          *PROSPECTIVE JUROR:* Yes.

18          *THE COURT:* Good. Okay. Anything about that  
19 experience that you think would keep you from being a fair  
20 juror in this case?

21          *PROSPECTIVE JUROR:* No.

22          *THE COURT:* Juror Number 15.

23          *PROSPECTIVE JUROR:* Yes.

24          *THE COURT:* Good morning.

25          *PROSPECTIVE JUROR:* Good morning.

1           *THE COURT:* Are you able to hear back there?

2           *PROSPECTIVE JUROR:* Yes, I am.

3           *THE COURT:* Good. No prior jury service?

4           *PROSPECTIVE JUROR:* No, ma'am.

5           *THE COURT:* And no answers on the reverse of the form,  
6 no yeses?

7           *PROSPECTIVE JUROR:* Correct.

8           *THE COURT:* Okay. If there's anything, jurors, that  
9 you remember after you filled out your form, there's no issue  
10 with your updating that form. Tell us if you forgot something,  
11 as one jury has already done. Juror Number 16.

12           *PROSPECTIVE JUROR:* Yes.

13           *THE COURT:* Good morning. No prior jury service?

14           *PROSPECTIVE JUROR:* Yes.

15           *THE COURT:* Yes. Where?

16           *PROSPECTIVE JUROR:* Dauphin County.

17           *THE COURT:* Dauphin County. What kind of case?

18           *PROSPECTIVE JUROR:* It was a 30-year-old and a  
19 12-year-old. I guess it went to verdict on that.

20           *THE COURT:* Okay. Speak a little louder so the  
21 lawyers can hear you. Am I understanding you that it was a  
22 sexual misconduct?

23           *PROSPECTIVE JUROR:* Yes, yes.

24           *THE COURT:* All right. And that did go to verdict?

25           *PROSPECTIVE JUROR:* Yes.

1           *THE COURT:* And you said that somebody close to you is  
2 employed in law enforcement?

3           *PROSPECTIVE JUROR:* That would be myself.

4           *THE COURT:* Okay. Tell me about that.

5           *PROSPECTIVE JUROR:* I'm a correctional officer at  
6 Dauphin County.

7           *THE COURT:* How long?

8           *PROSPECTIVE JUROR:* Eight years.

9           *THE COURT:* And what did you do before that?

10          *PROSPECTIVE JUROR:* I was a machinist.

11          *THE COURT:* Really? Where?

12          *PROSPECTIVE JUROR:* In Millersburg.

13          *THE COURT:* And how did you happen to change  
14 professions?

15          *PROSPECTIVE JUROR:* Well, somebody came up and said,  
16 hey, you look like you'd do a good job in the CO business, so I  
17 applied. Because my business that I was in was failing, so  
18 they said you need to find work. So that's what happened.

19          *THE COURT:* Okay. You plan to stay there for the long  
20 term?

21          *PROSPECTIVE JUROR:* Yes.

22          *THE COURT:* Are the duties pretty standard in Dauphin  
23 County Prison? Everybody does the same thing?

24          *PROSPECTIVE JUROR:* Pretty much, yeah.

25          *THE COURT:* And your job is basically to guard the

1 prisoners?

2           *PROSPECTIVE JUROR:* Yes.

3           *THE COURT:* Do you carry a firearm?

4           *PROSPECTIVE JUROR:* Only when I'm on outside grounds  
5 or doing hospital runs or something.

6           *THE COURT:* So not in the prison?

7           *PROSPECTIVE JUROR:* No.

8           *THE COURT:* All right. And then what about the rest  
9 of the time?

10           *PROSPECTIVE JUROR:* The rest of the time is just  
11 you're watching them, make sure they're doing what they're  
12 supposed to do, be in the places they're supposed to be in, and  
13 correct them if they're not.

14           *THE COURT:* So you're comfortable around firearms?

15           *PROSPECTIVE JUROR:* Yes.

16           *THE COURT:* Obviously. Anybody not comfortable around  
17 firearms? Okay. Juror Number 17, good morning.

18           *PROSPECTIVE JUROR:* Good morning.

19           *THE COURT:* I see that you've had no prior jury  
20 service.

21           *PROSPECTIVE JUROR:* No.

22           *THE COURT:* But someone close to you was arrested,  
23 charged, or convicted.

24           *PROSPECTIVE JUROR:* They were convicted.

25           *THE COURT:* And is that something you can talk about

1 comfortably in open court?

2           *PROSPECTIVE JUROR:* It was my nephews, two different.  
3 One was basically DUI repeating over the years, you know,  
4 getting in fights or whatever. No really serious thing, except  
5 for the --

6           *THE COURT:* He had an alcohol problem?

7           *PROSPECTIVE JUROR:* Yes.

8           *THE COURT:* And then?

9           *PROSPECTIVE JUROR:* The second one was a sexual thing.

10          *THE COURT:* Okay.

11          *PROSPECTIVE JUROR:* And then I have a friend that's  
12 still pending.

13          *THE COURT:* The pending case, is it here in the Middle  
14 District?

15          *PROSPECTIVE JUROR:* No.

16          *THE COURT:* Do you know what the charges are?

17          *PROSPECTIVE JUROR:* It's called elder abuse.

18          *THE COURT:* And that is in the county?

19          *PROSPECTIVE JUROR:* Actually, it's a federal thing.

20          *THE COURT:* It's a federal charge?

21          *PROSPECTIVE JUROR:* Um-hum.

22          *THE COURT:* Do you know whether the U.S. Attorney's  
23 Office in this district is prosecuting your friend?

24          *PROSPECTIVE JUROR:* No, they're not.

25          *THE COURT:* They're not. It's somewhere else?

1           *PROSPECTIVE JUROR:* It's in Williamsport, I believe.

2           *THE COURT:* Okay.

3           *PROSPECTIVE JUROR:* And previously in Scranton, you  
4 know, in that area.

5           *THE COURT:* Are you following that case, going to  
6 court with your friend?

7           *PROSPECTIVE JUROR:* Oh, no.

8           *THE COURT:* You just know about it?

9           *PROSPECTIVE JUROR:* I have written a letter in his  
10 favor.

11          *THE COURT:* So is he about to be sentenced?

12          *PROSPECTIVE JUROR:* About to be. It was pretty hard.

13          *THE COURT:* All right. Is there anything about the  
14 three cases that you've highlighted here that suggests to you  
15 that the people close to you are not getting a fair shake in  
16 the system?

17          *PROSPECTIVE JUROR:* I would have to say yes.

18          *THE COURT:* Yes?

19          *PROSPECTIVE JUROR:* Not fair.

20          *THE COURT:* Which one of the three?

21          *PROSPECTIVE JUROR:* My nephews.

22          *THE COURT:* Okay.

23          *PROSPECTIVE JUROR:* Well, actually, all three of them.

24          *THE COURT:* You feel they were unfairly prosecuted?

25          *PROSPECTIVE JUROR:* Um-hum.

1           *THE COURT:* Okay. Thank you. Juror Number 18.

2           *PROSPECTIVE JUROR:* Good morning.

3           *THE COURT:* Good morning. No prior jury service?

4           *PROSPECTIVE JUROR:* Nope.

5           *THE COURT:* But there is a lawsuit?

6           *PROSPECTIVE JUROR:* It's just workman's comp. It was  
7 my dad.

8           *THE COURT:* Your dad?

9           *PROSPECTIVE JUROR:* Yeah.

10          *THE COURT:* Did that work out okay for him?

11          *PROSPECTIVE JUROR:* It did.

12          *THE COURT:* Good. I see somebody close to you is a  
13 law enforcement official.

14          *PROSPECTIVE JUROR:* I'm an attorney.

15          *THE COURT:* You're an attorney?

16          *PROSPECTIVE JUROR:* Yes.

17          *THE COURT:* Where do you work?

18          *PROSPECTIVE JUROR:* I don't practice. I work at Bank  
19 of America. I do mortgages instead.

20          *THE COURT:* I see. Did you practice at any time?

21          *PROSPECTIVE JUROR:* A couple cases, admin court, or  
22 just, like, personal family stuff, not an open practice.

23          *THE COURT:* All right. Thank you. Juror Number 19.

24          *PROSPECTIVE JUROR:* Good morning.

25          *THE COURT:* Good morning. Can you tell us about your

1 prior jury service?

2 PROSPECTIVE JUROR: A DUI case in Cumberland County  
3 Court.

4 THE COURT: Was that your only service?

5 PROSPECTIVE JUROR: I'm sorry?

6 THE COURT: Was that your only service?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. I see that you served in the  
9 military.

10 PROSPECTIVE JUROR: Yes, ma'am.

11 THE COURT: Can you tell me about your service?

12 PROSPECTIVE JUROR: I was in the United States Army  
13 for four years.

14 THE COURT: Were you a member of the military police?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Where did you serve?

17 PROSPECTIVE JUROR: Served mostly in Germany for the  
18 U.S. consulate.

19 THE COURT: All right. Thank you. Juror Number 20.

20 PROSPECTIVE JUROR: Good morning.

21 THE COURT: Good morning. No prior jury service?

22 PROSPECTIVE JUROR: Nothing.

23 THE COURT: And no positive answers on the reverse of  
24 the form, nothing in the affirmative?

25 PROSPECTIVE JUROR: No.



1           *THE COURT:* Okay. Juror Number 21, good morning. I  
2 see that you have a police officer in the family.

3           *PROSPECTIVE JUROR:* My husband.

4           *THE COURT:* All right.

5           *PROSPECTIVE JUROR:* And my brother.

6           *THE COURT:* Your husband and your brother?

7           *PROSPECTIVE JUROR:* Um-hum.

8           *THE COURT:* Okay. Where do they work?

9           *PROSPECTIVE JUROR:* My husband was with the state  
10 police for 25 years. He retired, and he's now an officer with  
11 North Middleton Township.

12           *THE COURT:* I'm sorry, could you speak up just a  
13 little?

14           *PROSPECTIVE JUROR:* My husband was with the state  
15 police for 25 years, and he retired, and he is now a full-time  
16 officer with North Middleton.

17           *THE COURT:* North Middleton Township. And your --

18           *PROSPECTIVE JUROR:* And my brother is with the Delray  
19 Police Department in Florida.

20           *THE COURT:* Delray Beach, Florida. Good for him.  
21 It's a nice, warm place. A lot of us wish we were there right  
22 now. Okay. Do you talk to them about their cases?

23           *PROSPECTIVE JUROR:* They do talk to me, yes.

24           *THE COURT:* Do you think that would influence your  
25 ability to be a fair juror in this case?

1 I'm going to be instructing you on the law of the  
2 case, telling you that the burden of proof is always on the  
3 government in the case. The government is the plaintiff, the  
4 government has to prove charges that they bring here.

5 As I said to you earlier, the indictment is only a  
6 charge. The defendant in the case has the presumption of  
7 innocence, and that stays with him throughout the trial until  
8 the government has proved all the elements of the charge. Any  
9 problem following those instructions?

10 *PROSPECTIVE JUROR:* No.

11 *THE COURT:* Okay. Good. You indicated that someone  
12 close to you had been a victim? No, I misread that. I  
13 apologize. But a witness?

14 *PROSPECTIVE JUROR:* Well, I wasn't sure with my  
15 husband's --

16 *THE COURT:* That maybe the husband was the witness?

17 *PROSPECTIVE JUROR:* Yeah.

18 *THE COURT:* But not you, you have not witnessed a  
19 crime?

20 *PROSPECTIVE JUROR:* No, not me.

21 *THE COURT:* Good. All right. Thank you. Juror  
22 Number 22.

23 *PROSPECTIVE JUROR:* Yes, Your Honor.

24 *THE COURT:* Are you able to hear me?

25 *PROSPECTIVE JUROR:* I am, Your Honor.

1           *THE COURT:* Okay. Terrific. Thank you. You  
2 indicated there was a lawsuit in your background?

3           *PROSPECTIVE JUROR:* Well, I'm a lawyer. I was in  
4 litigation for 18 years. And I did indicate lawsuits because I  
5 have been involved as a party in lawsuits, as well.

6           *THE COURT:* All right. First tell us about your  
7 status as a party to a lawsuit.

8           *PROSPECTIVE JUROR:* Well, I was a party to a lawsuit  
9 involving a traffic accident, and I've been a party to a legal  
10 malpractice claim. My firm, my partner and I, were sued for  
11 legal malpractice.

12          *THE COURT:* Are those resolved now?

13          *PROSPECTIVE JUROR:* The accident case was settled.  
14 The legal malpractice suit is ongoing, although I have left  
15 that firm.

16          *THE COURT:* How many years have you been a lawyer?

17          *PROSPECTIVE JUROR:* Twenty years.

18          *THE COURT:* And how many years have you been in your  
19 current job as assistant general counsel?

20          *PROSPECTIVE JUROR:* Nine months.

21          *THE COURT:* Nine months?

22          *PROSPECTIVE JUROR:* Yes.

23          *THE COURT:* All right. Is it going well for you?

24          *PROSPECTIVE JUROR:* It is.

25          *THE COURT:* Okay. Have you ever practiced criminal

1 law?

2 *PROSPECTIVE JUROR:* I mean, I've touched or worked on  
3 specific items in a criminal case, but that would be a very,  
4 very small portion of all the things that I did in private  
5 practice.

6 *THE COURT:* When you say you touched on it, what kinds  
7 of involvement did you have?

8 *PROSPECTIVE JUROR:* Draft a motion, show up in court  
9 for someone going into ADR, two or three things over the years.

10 *THE COURT:* Do you think these experiences would keep  
11 you from being a fair juror in this matter?

12 *PROSPECTIVE JUROR:* No.

13 *THE COURT:* Someone close to you involved in law  
14 enforcement?

15 *PROSPECTIVE JUROR:* No.

16 *THE COURT:* No? Okay. Thank you. Juror Number 23,  
17 good morning. I see that you have served as a juror  
18 previously.

19 *PROSPECTIVE JUROR:* Yes.

20 *THE COURT:* Where was that?

21 *PROSPECTIVE JUROR:* Baltimore City.

22 *THE COURT:* And there was not a verdict?

23 *PROSPECTIVE JUROR:* No.

24 *THE COURT:* What kind of case was it?

25 *PROSPECTIVE JUROR:* Civil.

1           *THE COURT:* Do you remember what it was about?

2           *PROSPECTIVE JUROR:* No.

3           *THE COURT:* Okay. You indicated that there was a  
4 potential for a lawsuit on your behalf.

5           *PROSPECTIVE JUROR:* Well, I'm in the process of  
6 seeking a lawsuit.

7           *THE COURT:* And it involves your former employer, did  
8 you say?

9           *PROSPECTIVE JUROR:* Yes.

10          *THE COURT:* Can you tell me a little bit about that?

11          *PROSPECTIVE JUROR:* I was assaulted on the job, and I  
12 was terminated from employment, assaulted by an inmate, and I  
13 plan to seek legal advice.

14          *THE COURT:* Okay. Thank you. I'm going to ask you to  
15 speak up just a little bit. All right? I want to ask you  
16 about the questions on the reverse of the form.

17          Tell me about the first one, somebody close to you  
18 being arrested, charged, or convicted.

19          *PROSPECTIVE JUROR:* My brothers and brother-in-law.

20          *THE COURT:* And what kinds of cases?

21          *PROSPECTIVE JUROR:* Involving drugs, selling drugs.

22          *THE COURT:* Selling drugs?

23          *PROSPECTIVE JUROR:* Yeah.

24          *THE COURT:* Was that in Baltimore County?

25          *PROSPECTIVE JUROR:* In Washington, D.C., and Baltimore

1 City.

2 THE COURT: And are those cases resolved now?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And how did they end?

5 PROSPECTIVE JUROR: Charged and convicted.

6 THE COURT: Are they serving time now?

7 PROSPECTIVE JUROR: Not at this time.

8 THE COURT: Somebody close to you is employed in law  
9 enforcement, as well?

10 PROSPECTIVE JUROR: Yes, my cousin.

11 THE COURT: And where is that?

12 PROSPECTIVE JUROR: Washington, D.C.

13 THE COURT: Police officer?

14 PROSPECTIVE JUROR: Yes, ma'am.

15 THE COURT: How long has he been an officer?

16 PROSPECTIVE JUROR: Twenty years.

17 THE COURT: And you indicated that you were the victim  
18 of a crime. Was that the assault that happened?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And that you were an eyewitness to a  
21 crime. Same event or is there another event?

22 PROSPECTIVE JUROR: A different event, assault on a  
23 minor.

24 THE COURT: You witnessed that?

25 PROSPECTIVE JUROR: Yeah.

1           *THE COURT:* Were you called to court to testify?

2           *PROSPECTIVE JUROR:* Yes, I was.

3           *THE COURT:* And that's why you answered yes to the  
4 next question. Okay. Thank you.

5           When you said that you were assaulted on the job by an  
6 inmate, where were you working?

7           *PROSPECTIVE JUROR:* Department of Health and Mental  
8 Hygiene in Jessup, Maryland.

9           *THE COURT:* In Maryland?

10          *PROSPECTIVE JUROR:* In Maryland.

11          *THE COURT:* All right. Thank you. Juror Number 24.

12          *PROSPECTIVE JUROR:* Good morning, Your Honor.

13          *THE COURT:* Good morning. You have a lawsuit pending,  
14 as well?

15          *PROSPECTIVE JUROR:* No, not pending. I was one of the  
16 unfortunate souls who received one of those defective hips that  
17 had to be removed and replaced.

18          *THE COURT:* Oh, boy.

19          *PROSPECTIVE JUROR:* So there was a -- it wasn't a  
20 class action. I can't remember what they called it. But there  
21 was no court, we were just all -- there was a settlement.

22          *THE COURT:* But you were compensated?

23          *PROSPECTIVE JUROR:* Yes.

24          *THE COURT:* Were you satisfied with the compensation  
25 you received?

1           *PROSPECTIVE JUROR:* Yes.

2           *THE COURT:* And your health is good now?

3           *PROSPECTIVE JUROR:* Yes.

4           *THE COURT:* Good. Okay. Thank you. You indicated  
5 that somebody close to you had been arrested, charged, or  
6 convicted.

7           *PROSPECTIVE JUROR:* A brother for robbery in Florida.

8           *THE COURT:* How long ago was that?

9           *PROSPECTIVE JUROR:* He did it a couple times, so it  
10 was about 20 years ago and maybe about 15 years ago.

11           *THE COURT:* So by now he's probably served his  
12 sentence?

13           *PROSPECTIVE JUROR:* He's deceased.

14           *THE COURT:* Oh, okay. Sorry. Somebody close to you  
15 is employed in law enforcement?

16           *PROSPECTIVE JUROR:* A niece who is a correctional  
17 officer in North Carolina.

18           *THE COURT:* And that you had been the victim of a  
19 crime?

20           *PROSPECTIVE JUROR:* Pardon me?

21           *THE COURT:* You said you had been the victim of a  
22 crime or somebody --

23           *PROSPECTIVE JUROR:* Just like a push-down robbery when  
24 I lived in Philadelphia.

25           *THE COURT:* Do you think any of these experiences or



1       associations would keep you from being a fair juror here?

2               *PROSPECTIVE JUROR:*   No.

3               *THE COURT:*   No?

4               *PROSPECTIVE JUROR:*   No.

5               *THE COURT:*   All right.  Thank you.  Juror Number 25.

6               *PROSPECTIVE JUROR:*   Good morning.

7               *THE COURT:*   Good morning.  You served our United  
8       States Navy?

9               *PROSPECTIVE JUROR:*   Yes.

10              *THE COURT:*   In what capacity?

11              *PROSPECTIVE JUROR:*   I was an electronics technician  
12       and working on the Polaris subs and stationed in Holy Loch,  
13       Scotland most of my tour.

14              *THE COURT:*   All right.  Have you ever served in the  
15       military police?

16              *PROSPECTIVE JUROR:*   No.

17              *THE COURT:*   Okay.  Thank you.  Juror Number 26.

18              *PROSPECTIVE JUROR:*   Good morning.

19              *THE COURT:*   Good morning.  You have a lawsuit pending?

20              *PROSPECTIVE JUROR:*   Yes.

21              *THE COURT:*   And where is that suit filed, do you know?

22              *PROSPECTIVE JUROR:*   I believe it's in Philadelphia.

23              *THE COURT:*   In federal court in Philadelphia?

24              *PROSPECTIVE JUROR:*   I believe so.  They just came to a  
25       settlement.

1           *THE COURT:* All right. Have you signed off on that?

2           *PROSPECTIVE JUROR:* Not yet.

3           *THE COURT:* Not yet?

4           *PROSPECTIVE JUROR:* No.

5           *THE COURT:* Okay. Can you tell me who close to you is  
6 employed in law enforcement?

7           *PROSPECTIVE JUROR:* I have a couple friends I went to  
8 college with that are police officers in Delaware County.

9           *THE COURT:* Do you speak with them about their work  
10 affairs?

11          *PROSPECTIVE JUROR:* No.

12          *THE COURT:* No? Okay.

13          *PROSPECTIVE JUROR:* And I also have a family friend  
14 that's a correctional officer at the Schuylkill penitentiary.

15          *THE COURT:* All right. Who close to you was  
16 victimized?

17          *PROSPECTIVE JUROR:* It happened to my wife and I. Our  
18 car was broken into last summer.

19          *THE COURT:* Was anyone arrested?

20          *PROSPECTIVE JUROR:* Yes, two young juveniles.

21          *THE COURT:* Is that why you marked that you were the  
22 eyewitness?

23          *PROSPECTIVE JUROR:* No, I was also an eyewitness to  
24 someone stealing wood from builders when our house was  
25 next-door to the lot.

1           *THE COURT:* I see. And you reported that?

2           *PROSPECTIVE JUROR:* Our neighbor and I did, yes.

3           *THE COURT:* Did anything come of it?

4           *PROSPECTIVE JUROR:* No.

5           *THE COURT:* When you marked the last question that you  
6 were involved in the investigation or litigation, was that the  
7 incident you were talking about?

8           *PROSPECTIVE JUROR:* Yes.

9           *THE COURT:* All right. Thank you. Juror Number 27.

10          *PROSPECTIVE JUROR:* Yes, ma'am.

11          *THE COURT:* I see that you've had no prior jury  
12 service.

13          *PROSPECTIVE JUROR:* No.

14          *THE COURT:* And I also see that there are no  
15 affirmative responses on the back of the form. Is that right?

16          *PROSPECTIVE JUROR:* That's correct.

17          *THE COURT:* Is there anything you need to change?

18          *PROSPECTIVE JUROR:* No.

19          *THE COURT:* All right. Thank you. Juror Number 28.

20          *PROSPECTIVE JUROR:* Good morning, Your Honor.

21          *THE COURT:* Good morning. I see that you have had  
22 prior jury service in Carlisle?

23          *PROSPECTIVE JUROR:* Yes, ma'am.

24          *THE COURT:* Cumberland County Court. What kind of  
25 case did you serve on?

1           *PROSPECTIVE JUROR:* Several DUIs, Your Honor.

2           *THE COURT:* And they all deliberated to verdict?

3           *PROSPECTIVE JUROR:* They all did, yes.

4           *THE COURT:* Anything about that experience that would  
5 keep you from being a fair juror in this case?

6           *PROSPECTIVE JUROR:* No, Your Honor.

7           *THE COURT:* All right. You also served in the U.S.  
8 Army?

9           *PROSPECTIVE JUROR:* I actually am a civilian,  
10 currently employed as a civilian with the United States Army.

11           *THE COURT:* Have you ever served as a member of the  
12 military police?

13           *PROSPECTIVE JUROR:* No.

14           *THE COURT:* Someone close to you was arrested,  
15 charged, or convicted?

16           *PROSPECTIVE JUROR:* Yes.

17           *THE COURT:* Who was that?

18           *PROSPECTIVE JUROR:* My brother-in-law was convicted of  
19 DUI.

20           *THE COURT:* And you have law enforcement people close  
21 to you?

22           *PROSPECTIVE JUROR:* Yes.

23           *THE COURT:* Who are they?

24           *PROSPECTIVE JUROR:* I'm actually involved in  
25 supportive township work, and I know a large number of our

1 township police in Lower Allen Township. Also in my official  
2 capacity at Fort Detrick, Maryland, I am very close and work  
3 hand in glove with our security department. Most of those are  
4 former state penitentiary in Jessup and other penitentiaries in  
5 Maryland, and one police officer from Ocean City, Maryland, who  
6 works for me.

7 *THE COURT:* All right. Thank you. Juror Number 29,  
8 are you hearing me? I see you do what I do sometimes. Have  
9 you been able to hear everything?

10 *PROSPECTIVE JUROR:* I don't have good hearing in my  
11 left ear.

12 *THE COURT:* But are you hearing me okay?

13 *PROSPECTIVE JUROR:* Yep.

14 *THE COURT:* All right. I wanted to talk to you about  
15 your prior jury service.

16 *PROSPECTIVE JUROR:* Actually, I was called but never  
17 picked.

18 *THE COURT:* Okay. That makes it easier. And I see  
19 that you have no affirmative responses on the reverse of the  
20 form.

21 *PROSPECTIVE JUROR:* Right.

22 *THE COURT:* Is there anything else that you want to  
23 add that would reflect on whether or not you could be a fair  
24 juror in this case?

25 *PROSPECTIVE JUROR:* No.

1           *THE COURT:* Okay. Thank you. Juror Number 30.

2           *PROSPECTIVE JUROR:* Good morning.

3           *THE COURT:* Good morning. No prior jury service?

4           *PROSPECTIVE JUROR:* No.

5           *THE COURT:* Okay. Somebody close to you in law  
6 enforcement?

7           *PROSPECTIVE JUROR:* Three people. My uncle, my  
8 cousin, and one of my best friends are police officers.

9           *THE COURT:* And where do they work?

10          *PROSPECTIVE JUROR:* My uncle and my cousin, I'm not  
11 sure what jurisdiction they're in, but they live in  
12 Harleysville, Pa.

13          *THE COURT:* Okay.

14          *PROSPECTIVE JUROR:* And my friend's husband, he works  
15 around here in Harrisburg.

16          *THE COURT:* Do you have occasion to talk to them about  
17 their work?

18          *PROSPECTIVE JUROR:* No.

19          *THE COURT:* Okay. Thank you. Juror Number 31.

20          *PROSPECTIVE JUROR:* Good morning.

21          *THE COURT:* Good morning. You've had some involvement  
22 in the court system with a lawsuit?

23          *PROSPECTIVE JUROR:* I was previously an intern with  
24 the prothonotary's office.

25          *THE COURT:* Okay.

1           *PROSPECTIVE JUROR:* And I have interaction with my job  
2 as an auditor. I haven't been called as a witness, but our  
3 work can be used to support anything that would come to a  
4 proceeding.

5           *THE COURT:* Okay. Has somebody close to you been  
6 arrested, charged, or convicted?

7           *PROSPECTIVE JUROR:* Yes. My husband pled guilty to  
8 DUI.

9           *THE COURT:* When was that?

10          *PROSPECTIVE JUROR:* A couple years ago.

11          *THE COURT:* And somebody close to you is in law  
12 enforcement?

13          *PROSPECTIVE JUROR:* That was where I was interning.

14          *THE COURT:* All right. So there's not another person  
15 in addition to that?

16          *PROSPECTIVE JUROR:* No.

17          *THE COURT:* Okay. Thank you. Juror Number 32.

18          *PROSPECTIVE JUROR:* Good morning.

19          *THE COURT:* Good morning. Can you tell us about your  
20 prior jury service?

21          *PROSPECTIVE JUROR:* Yes. I was called and I was not  
22 selected for one time. It was in the early '90s. And then a  
23 few years later I was called and I -- they dismissed me because  
24 it was a criminal case involving Weis Markets and my  
25 sister-in-law worked at Weis Markets at the time.

1           *THE COURT:* I see. All right. Thank you.

2           *PROSPECTIVE JUROR:* And I did forget something --

3           *THE COURT:* Okay.

4           *PROSPECTIVE JUROR:* -- when I answered the questions,  
5 Your Honor, about household. I need to update this because I  
6 didn't go into nieces and nephews, but I have nieces and  
7 nephews that work as police officers and federal agents.

8           And then I also have nieces and nephews that have had  
9 DUIs, and also one of my nieces had some type of drug  
10 conviction where I know she had to wear an electronic device on  
11 her ankle and not leave the house.

12           *THE COURT:* Okay. Let's talk about the law  
13 enforcement official in your family. Who is that? That's a  
14 niece or a nephew?

15           *PROSPECTIVE JUROR:* It's a nephew, and I can't  
16 remember which township, but it's a township on the outskirts  
17 of Philadelphia.

18           *THE COURT:* And you think he has a federal position?

19           *PROSPECTIVE JUROR:* And the other one is an FBI  
20 special agent, but she guards the Attorney General.

21           *THE COURT:* In Washington?

22           *PROSPECTIVE JUROR:* Yeah.

23           *THE COURT:* Okay. And somebody, is it a niece or a  
24 nephew -- I think you said a niece -- who had to wear the  
25 electronic monitoring?



1           *PROSPECTIVE JUROR:* Yes. I have 20 nieces and  
2 nephews.

3           *THE COURT:* It sounded like you had a big family, yes.

4           *PROSPECTIVE JUROR:* I'm one of eight.

5           *THE COURT:* All right. Well, the electronic  
6 monitoring, do you know anything about that case?

7           *PROSPECTIVE JUROR:* No, because that brother-in-law is  
8 very secretive, but I showed up for Easter, and there was an  
9 electronic device on her ankle.

10          *THE COURT:* So you don't know whether it was --

11          *PROSPECTIVE JUROR:* I'm pretty sure it was drugs.

12          *THE COURT:* Drug distribution do you think?

13          *PROSPECTIVE JUROR:* I --

14          *THE COURT:* Don't know? Okay.

15          *PROSPECTIVE JUROR:* I love her, but she's sketchy.

16          *THE COURT:* All right. So I'm going to conclude from  
17 what you have said that none of those things are going to  
18 influence your ability to be a fair juror here. Am I right?

19          *PROSPECTIVE JUROR:* Yes.

20          *THE COURT:* Okay. Thank you. Juror Number 33.

21          *PROSPECTIVE JUROR:* Good morning.

22          *THE COURT:* Good morning. No prior jury service?

23          *PROSPECTIVE JUROR:* I've got to change that.

24          *THE COURT:* Okay.

25          *PROSPECTIVE JUROR:* Back in, I think it was 1977, I

1 got called to county court, and we were there two days, and  
2 they dismissed us.

3 *THE COURT:* Okay. So you didn't have to deliberate?

4 *PROSPECTIVE JUROR:* No.

5 *THE COURT:* All right. Perfect. Thank you. Juror  
6 Number 34.

7 *PROSPECTIVE JUROR:* Good morning.

8 *THE COURT:* Good morning. No prior jury service?

9 *PROSPECTIVE JUROR:* No, ma'am.

10 *THE COURT:* But somebody close to you is employed in  
11 law enforcement?

12 *PROSPECTIVE JUROR:* Yes, ma'am. My brother-in-law is  
13 now retired law enforcement.

14 *THE COURT:* And where did he work?

15 *PROSPECTIVE JUROR:* West York Borough Police.

16 *THE COURT:* West Shore Regional?

17 *PROSPECTIVE JUROR:* West York.

18 *THE COURT:* Oh, West York. Okay. How long was he  
19 there?

20 *PROSPECTIVE JUROR:* I'm not quite sure.

21 *THE COURT:* Do you know what kinds of cases he was  
22 involved in?

23 *PROSPECTIVE JUROR:* No, ma'am.

24 *THE COURT:* You said you've been the eyewitness to a  
25 crime?

1           *PROSPECTIVE JUROR:* I'm sorry?

2           *THE COURT:* You witnessed a crime yourself? Or did  
3 you answer that question because you were thinking of your  
4 brother-in-law?

5           *PROSPECTIVE JUROR:* No, I witnessed numerous  
6 shoplifting crimes. I worked in retail. They were all  
7 resolved. We didn't have to go to court.

8           *THE COURT:* Okay. Juror Number 35.

9           *PROSPECTIVE JUROR:* Good morning.

10          *THE COURT:* Good morning. Would you tell us about  
11 your grand jury experience?

12          *PROSPECTIVE JUROR:* It was long, 18 months, every  
13 other week for 18 months. It was interesting.

14          *THE COURT:* Where were you a grand juror?

15          *PROSPECTIVE JUROR:* Here in the Middle District.

16          *THE COURT:* Here in the Middle District. Okay.  
17 During what 18 months did you serve?

18          *PROSPECTIVE JUROR:* I don't know. It was at least 20  
19 years ago.

20          *THE COURT:* Okay. Do you remember what kinds of cases  
21 you handled or what U.S. Attorneys came before the grand jury  
22 at that time?

23          *PROSPECTIVE JUROR:* I don't remember the attorneys. I  
24 know one of them was deceased in an auto accident while we were  
25 convening, assistant district attorney. I don't remember his

1 name.

2 *THE COURT:* All right.

3 *PROSPECTIVE JUROR:* There were drug trafficking cases.  
4 There was -- one of the gentlemen, I think at the time, was a  
5 Ten Most Wanted bank robber. There were cases of sending  
6 offensive, pornographic material through the mail, things like  
7 that.

8 *THE COURT:* Okay. After your service concluded, did  
9 you have any other contact with the court?

10 *PROSPECTIVE JUROR:* I was called for jury service in  
11 Mifflin County and wasn't selected.

12 *THE COURT:* All right. After you concluded your  
13 service as a grand juror, looking back on it, would you say it  
14 was a positive experience?

15 *PROSPECTIVE JUROR:* Yeah, sure.

16 *THE COURT:* All right. Thank you. You indicated that  
17 somebody close to you had been victimized.

18 *PROSPECTIVE JUROR:* That would be my wife and I. We  
19 had a burglary. Some stuff was stolen out of our vehicle right  
20 in our own driveway while we were at home.

21 *THE COURT:* Was there any investigation?

22 *PROSPECTIVE JUROR:* I wasn't involved in any of it.  
23 The police just notified us that they had found some -- we knew  
24 some stuff was missing, and they notified us that they had  
25 found it and that the juveniles involved were in custody. And

1 we received restitution over the course of, I don't know, eight  
2 or nine years it took to pay it off.

3 *THE COURT:* Okay. Thank you. Juror Number 36.

4 *PROSPECTIVE JUROR:* Good morning, Your Honor.

5 *THE COURT:* Good morning. I see no prior jury  
6 service.

7 *PROSPECTIVE JUROR:* Yeah, but I need to update the  
8 back.

9 *THE COURT:* All right. Thank you.

10 *PROSPECTIVE JUROR:* My neighbor works for the state  
11 police. I don't know what post they are.

12 *THE COURT:* Okay. How long have you been neighbors?

13 *PROSPECTIVE JUROR:* Thirteen years.

14 *THE COURT:* Are you friendly enough that you would  
15 talk about his cases or the type of work?

16 *PROSPECTIVE JUROR:* No.

17 *THE COURT:* No?

18 *PROSPECTIVE JUROR:* No.

19 *THE COURT:* Okay.

20 *PROSPECTIVE JUROR:* Also, my brother-in-law is a  
21 police officer, but not in this country.

22 *THE COURT:* Let me guess, would that be in Ireland?

23 *PROSPECTIVE JUROR:* Yes.

24 *THE COURT:* Okay. What county?

25 *PROSPECTIVE JUROR:* County Wexford.

1           *THE COURT:* That's a pretty place.

2           *PROSPECTIVE JUROR:* Yeah.

3           *THE COURT:* Thank you. Anything else you want to  
4 update?

5           *PROSPECTIVE JUROR:* No, that's it.

6           *THE COURT:* All right. Thank you. Juror Number 37.

7           *PROSPECTIVE JUROR:* Good morning, Your Honor.

8           *THE COURT:* Good morning. No prior jury service?

9           *PROSPECTIVE JUROR:* Called, not selected, Adams  
10 County.

11          *THE COURT:* Adams County?

12          *PROSPECTIVE JUROR:* Yes, ma'am.

13          *THE COURT:* Okay. And nothing that you want to update  
14 on the back?

15          *PROSPECTIVE JUROR:* No, Your Honor.

16          *THE COURT:* Thank you. Juror Number 38.

17          *PROSPECTIVE JUROR:* Good morning.

18          *THE COURT:* Good morning. No prior jury service?

19          *PROSPECTIVE JUROR:* No.

20          *THE COURT:* No lawsuits?

21          *PROSPECTIVE JUROR:* No.

22          *THE COURT:* No yeses on the back of the form?

23          *PROSPECTIVE JUROR:* That's correct.

24          *THE COURT:* Okay. Thank you. Juror Number 39.

25          *PROSPECTIVE JUROR:* Good morning.

1           *THE COURT:* Good morning. You have not served as a  
2 juror previously? Correct?

3           *PROSPECTIVE JUROR:* No.

4           *THE COURT:* Nor have you been involved in lawsuits?

5           *PROSPECTIVE JUROR:* No.

6           *THE COURT:* And are your answers still no on the back  
7 of the form?

8           *PROSPECTIVE JUROR:* Yes.

9           *THE COURT:* Juror Number 40.

10          *PROSPECTIVE JUROR:* Good morning.

11          *THE COURT:* Good morning. No prior jury service?

12          *PROSPECTIVE JUROR:* No.

13          *THE COURT:* And all no on the back of the form?

14          *PROSPECTIVE JUROR:* Yes.

15          *THE COURT:* Is there anything you need to update on  
16 your form?

17          *PROSPECTIVE JUROR:* No.

18          *THE COURT:* Good. Okay. Anybody else have any  
19 updates to the form now that we've gone through things? If  
20 you'd raise your hand and tell me your juror number. Okay? On  
21 the front row here. Juror number?

22          *PROSPECTIVE JUROR:* Juror Number 6.

23          *THE COURT:* Okay.

24          *PROSPECTIVE JUROR:* I forgot to say that my aunt was  
25 charged with a DUI maybe, like, ten years ago.

1           *THE COURT:* All right. In the front row here.

2           *PROSPECTIVE JUROR:* I have a --

3           *THE COURT:* Juror number --

4           *PROSPECTIVE JUROR:* Fifteen.

5           *THE COURT:* Thank you.

6           *PROSPECTIVE JUROR:* It's a question, Your Honor, of  
7 semantics. With the question about a witness in a criminal  
8 proceeding, would that also include things that happened at the  
9 juvenile level?

10          *THE COURT:* It could.

11          *PROSPECTIVE JUROR:* Okay.

12          *THE COURT:* Can you tell us?

13          *PROSPECTIVE JUROR:* In that case then, I was a witness  
14 to several things in my role as a teacher with fights that were  
15 broken up in school and then was called -- they were -- it  
16 wasn't -- it's like a local magistrate level. So working in  
17 Steelton, it was Judge Lenker, I believe.

18          *THE COURT:* Okay. Thank you. Other jurors on the  
19 front row here. Juror Number --

20          *PROSPECTIVE JUROR:* Twenty.

21          *THE COURT:* Thank you.

22          *PROSPECTIVE JUROR:* My son, it's been years, was  
23 charged with a DUI, but it was dropped later.

24          *THE COURT:* All right. Second row.

25          *PROSPECTIVE JUROR:* Juror Number 25. I have a nephew



1 that works -- was in the police department at Philadelphia, and  
2 now he's working in one of the townships.

3 *THE COURT:* All right. Other jurors? Twenty-six?

4 *PROSPECTIVE JUROR:* I forgot to say I'm a part of  
5 other lawsuits with my type of job with snow removal and all  
6 that stuff.

7 *THE COURT:* I can see that. All right. Thank you.  
8 On the next row.

9 *PROSPECTIVE JUROR:* Twenty-nine.

10 *THE COURT:* All right.

11 *PROSPECTIVE JUROR:* I forgot to mention that I was  
12 once called to be a character witness for a customer of mine  
13 when I was self-employed. I did some renovation, and there was  
14 an issue with the paneling, and I was called to be a witness, a  
15 character witness.

16 *THE COURT:* Thank you. Other jurors? Thirty.

17 *PROSPECTIVE JUROR:* My husband, when he was a  
18 juvenile, he was arrested, when we were in high school.

19 *THE COURT:* Do you know what the arrest was for?

20 *PROSPECTIVE JUROR:* For marijuana possession.

21 *THE COURT:* Was there a charge in connection with that  
22 marijuana possession?

23 *PROSPECTIVE JUROR:* I don't -- I'm not sure.

24 *THE COURT:* But it was a juvenile case?

25 *PROSPECTIVE JUROR:* Yes.

1           *THE COURT:* Okay. Other jurors? Number?

2           *PROSPECTIVE JUROR:* Thirty-three.

3           *THE COURT:* Thirty-three. Okay.

4           *PROSPECTIVE JUROR:* I think it was 1991, my younger  
5 brother, he was arrested and spent six months in jail for  
6 assault, and I think he did a year's probation.

7           *THE COURT:* All right. Thank you. Other jurors? One  
8 more hand, yes.

9           *PROSPECTIVE JUROR:* Juror 31. I was a victim of a  
10 crime. I had items stolen from my vehicle.

11          *THE COURT:* Was there an arrest?

12          *PROSPECTIVE JUROR:* No, just a report filed.

13          *THE COURT:* Okay. Anyone else that we missed?  
14 Jurors, this is a good time for us to take a little break from  
15 the questioning, and I'll introduce you to the lawyers in the  
16 case. And what I'm going to do is ask the lawyers to introduce  
17 you to the people at their tables and to share with you a list  
18 of potential witnesses who might be called in this case.

19               I want you to listen to that list and be prepared to  
20 tell me whether you have any association at all with the people  
21 at the tables or with the witnesses who could potentially be  
22 called in this case.

23               The government is being represented by Ms. Meredith  
24 Taylor. Ms. Taylor, good morning.

25               *MS. TAYLOR:* Good morning, Your Honor. Good morning,

1 ladies and gentlemen. Also assisting me in this case is  
2 Assistant United States Attorney Joe Terz.

3 MR. TERZ: Good morning.

4 MS. TAYLOR: And the back table here, Special Agent  
5 Joe Myers from the Drug Enforcement Administration and Special  
6 Agent Jonathan Maiolo from IRS. Does anybody know me or  
7 Mr. Terz or any of the agents who are seated here? I see no  
8 response.

9 In the government's case, the witnesses that you may  
10 hear from or about will include the following people:

11 Detective Russell Schauer of Springettsbury Township  
12 Police Department; Trooper Justin Dembowski of the Pennsylvania  
13 State Police; Detective Adam Bruckhart of West Manchester  
14 Township Police Department. From West Hanover Township Police  
15 Department, you may hear from or about Sergeant Travis Shearer  
16 and Detective Corey Merwede.

17 From that list of officers or detectives, does anybody  
18 know any of those folks? I see and hear no response.

19 Additional witnesses may include Detective David Ennes  
20 of the Butte County Sheriff's Office in California; a forensic  
21 chemist from the Pennsylvania State Police Bureau of Forensic  
22 Services Laboratory, Nicole Blascovich; Ryan Falsone; and Tyler  
23 Long.

24 With the addition of those names, does anybody believe  
25 they know any of those individuals? Your Honor, I see no

1 response to those, and that's our list.

2 *THE COURT:* Thank you, counsel. Jurors, the defendant  
3 in the case is represented by Ms. Lori Ulrich. Good morning,  
4 Ms. Ulrich.

5 *MS. ULRICH:* Good morning, Your Honor. Would you like  
6 me to introduce Mr. Heath?

7 *THE COURT:* Please.

8 *MS. ULRICH:* This is my client, Christopher  
9 Mark Heath. I will be defending him. I will be assisted by  
10 Richard Garvey, who is an investigator.

11 *MR. GARVEY:* Good morning.

12 *MS. ULRICH:* Does anybody know Mr. Heath or  
13 Mr. Garvey?

14 *THE COURT:* Does anybody know Ms. Ulrich?

15 *MS. ULRICH:* Oh, that's a good question. That's a  
16 good question, too.

17 *THE COURT:* All right. Thank you, counsel. Jurors, I  
18 just want to go over a couple of things with you before I allow  
19 the lawyers to pose any questions that they have following up  
20 on your questionnaire.

21 In a criminal case, as some of you may already know,  
22 the law presumes that the defendant is innocent until proven  
23 guilty. In this regard, the law requires that the government  
24 prove each and every element of the crime charged beyond a  
25 reasonable doubt. The defendants are not required to produce

1 any evidence on their own behalf but rely on the status of the  
2 record as presented by the government. Is there anybody who  
3 has been called for service who cannot or will not accept this  
4 principle of law?

5 Does everybody understand that if the prosecution, the  
6 government, fails to meet its burden of proving the guilt of  
7 Defendant Christopher Mark Heath with evidence that amounts to  
8 proof beyond a reasonable doubt, as I will explain it to you in  
9 my instructions, does everyone understand that if the  
10 government cannot meet this burden, the verdict will have to be  
11 not guilty? Is there anyone who cannot follow my instruction  
12 on the law in that regard?

13 Counsel, Ms. Taylor, are there questions based on the  
14 questionnaire or the voir dire submitted to the court?

15 *MS. TAYLOR:* No, Your Honor, there are no additional  
16 questions from the government.

17 *THE COURT:* Ms. Ulrich.

18 *MS. ULRICH:* Yes, Your Honor, I do have a few  
19 additional questions. I know a lot of people shared a lot of  
20 personal information today. Some were victims of crimes,  
21 people know people that have been charged, arrested, and  
22 jailed.

23 Would any of the experiences in any of those cases,  
24 including contact with law enforcement, impact anybody's  
25 ability to sit on this case fairly and impartially, anything

1 about anything in your background? No response. Thank you.

2 A few more questions. I'm going to tell you that  
3 during this trial, Mr. Heath will be acknowledging that he was  
4 involved in transporting marijuana from California to  
5 Pennsylvania with the co-defendants Tyler Long and Ryan  
6 Falsone. He will be contesting that he possessed a firearm in  
7 relation to drug trafficking.

8 So what I need to know, is there anyone who could not  
9 judge him fairly on all the counts knowing that he is actually  
10 admitting to some of the conduct in this case? Anybody at all?

11 And this is a drug trafficking case, and I guess my  
12 question is, is there anyone here who has family or themselves  
13 have been impacted by the use of illegal drugs? Thank you.  
14 You will -- oh, I'm sorry, sir. May I follow up, or did you  
15 want to follow up?

16 *THE COURT:* Yes, yes, Juror Number --

17 *PROSPECTIVE JUROR:* Thirty-five.

18 *THE COURT:* Thank you.

19 *MS. ULRICH:* And may I ask, are you able to talk about  
20 that in open --

21 *PROSPECTIVE JUROR:* Well, my sister was involved with  
22 and eventually married a guy that was heavily into crack  
23 cocaine and things of that nature, and she ended up getting  
24 pregnant. And he was into burglary and robbery and all sorts  
25 of things. He ended up doing, I think, seven or eight, nine

1 years in the state, in North Carolina.

2 MS. ULRICH: And I'm sorry to hear that, by the way.

3 PROSPECTIVE JUROR: It was quite an impact on the  
4 family.

5 MS. ULRICH: It sounds like it. And I appreciate you  
6 answering that, and I do want to follow up and ask, anything  
7 about that, would that impact your ability to sit in on this  
8 case fairly and impartially knowing that this, in fact, is a  
9 drug case? It's marijuana, it's not crack, but it is a drug  
10 case.

11 PROSPECTIVE JUROR: I don't think so. I mean, it was  
12 a family issue, and we were upset about things going on there,  
13 but all in all, I don't think so.

14 MS. ULRICH: Okay. Thank you. I appreciate that.  
15 Anyone else? Yes, sir.

16 PROSPECTIVE JUROR: Yes, the assault that took place,  
17 the person that assaulted me was under the influence of  
18 marijuana.

19 MS. ULRICH: Okay. And this is a marijuana case, sir,  
20 so is there anything about that that would impact your ability  
21 to sit on this case fairly and impartially knowing that this is  
22 a case involving marijuana?

23 PROSPECTIVE JUROR: I'm really not sure.

24 MS. ULRICH: Okay. It might, you're just -- you're  
25 not sure?

1           *PROSPECTIVE JUROR:* I don't know.

2           *MS. ULRICH:* Okay. Thank you. Is there anyone else?

3           *PROSPECTIVE JUROR:* My nephew just died from an  
4 overdose.

5           *MS. ULRICH:* I'm very sorry to hear that.

6           *PROSPECTIVE JUROR:* I don't know --

7           *MS. ULRICH:* I'm sorry?

8           *PROSPECTIVE JUROR:* I don't know if it was crack or  
9 heroin.

10          *MS. ULRICH:* I'm very sorry to hear that.

11          *MR. TERZ:* The number of the juror, please?

12          *PROSPECTIVE JUROR:* Eight.

13          *MS. ULRICH:* Are you Juror Number 8?

14          *PROSPECTIVE JUROR:* Eight.

15          *MS. ULRICH:* And, sir, is there anything about that --  
16 I know that's pretty powerful -- that would affect your ability  
17 to sit in on this case fairly and impartially?

18          *PROSPECTIVE JUROR:* I don't know. I don't think so.

19          *MS. ULRICH:* I'm sorry?

20          *PROSPECTIVE JUROR:* I don't think so. I don't know.

21          *MS. ULRICH:* You don't know or --

22          *PROSPECTIVE JUROR:* I don't know.

23          *MS. ULRICH:* I mean, you said you didn't know what  
24 type of drug it was, but it was an illegal drug?

25          *PROSPECTIVE JUROR:* Yes.



1           *MS. ULRICH:* Okay. And obviously it has had a huge  
2 impact on the family. Correct?

3           *PROSPECTIVE JUROR:* Yes, it did.

4           *MS. ULRICH:* And it's okay, but we just have to make  
5 sure that people can be fair and impartial. Is it fair to say  
6 that you're not sure you could be fair and impartial?

7           *PROSPECTIVE JUROR:* I think I could. I think I could  
8 be.

9           *MS. ULRICH:* You think you could?

10          *PROSPECTIVE JUROR:* I think I could.

11          *MS. ULRICH:* Thank you, sir. Anyone else? All right.  
12 You will also hear that Mr. Heath was the sheriff with the Yuba  
13 County Sheriff's Department in California at the time that he's  
14 alleged to have committed these offenses. I know a lot of you  
15 said you had law enforcement contact, but you will hear that he  
16 was a sheriff at the time with the Yuba County Sheriff's  
17 Department in California.

18          So my question is this: Is there anyone who could not  
19 judge him fairly knowing that he was a law enforcement officer  
20 at the time he is alleged to have committed these offenses? I  
21 see some reactions, but is everybody -- knowing that he was a  
22 sheriff, can sit and judge him fairly and impartially? Your  
23 Honor, thank you. That's all I have.

24          *THE COURT:* Thank you, counsel. Jurors, I have a few  
25 final questions for all of you, and then I'm going to ask the

1 lawyers to exercise their challenge. We'll reduce this panel  
2 of 40 down to 14 jurors.

3 First of all, if you're selected to sit on the case,  
4 will you be able to render a verdict solely on the evidence  
5 presented at the trial and in the context of the law as I will  
6 give to you in my instructions, disregarding any other ideas,  
7 notions, or beliefs about the law that you may have encountered  
8 in reaching your verdict? Is everyone here going to be able to  
9 keep an open mind, hear the evidence, and follow my  
10 instructions on the law?

11 Is there any member of the panel who has a special  
12 disability or problem that would make it difficult or  
13 impossible to serve as a member of this panel over the next  
14 several days?

15 Is there anybody who has difficulty in reading or  
16 understanding English that would make it difficult for them to  
17 follow the evidence, read the instructions that I give you, and  
18 render a verdict in the case?

19 Does any prospective juror have any religious,  
20 philosophical, or other beliefs that would make him or her  
21 unable to act as a judge of the facts of the case and render a  
22 verdict for reasons unrelated to the law or evidence?

23 Prospective jurors, is there anything else that you  
24 believe should be called to my attention or the attention of  
25 the lawyers that you think might interfere with your ability to

1 be a fair and impartial juror in this case? Anything at all?  
2 Would counsel approach the bench.

3 *(The following discussion occurred at sidebar:)*

4 *THE COURT:* Are there any challenges for cause?

5 *MS. ULRICH:* I'm going to make one to Juror Number 8.  
6 He was not sure he could be impartial, so I really want to  
7 strike him for cause.

8 *THE COURT:* Ms. Taylor.

9 *MS. TAYLOR:* Your Honor, he did indicate initially  
10 that he didn't know if he could be fair and impartial. That  
11 was as far as it went.

12 *THE COURT:* I don't think that there's enough at this  
13 point to excuse him for cause. I'm willing to inquire of him  
14 further, but I'm not sure that would be a positive approach.  
15 But I'm happy to inquire if you want me to. I would simply ask  
16 him how long ago it's been since he lost his nephew.

17 *MS. ULRICH:* Just a little more to get me a sense --

18 *THE COURT:* About the circumstances. All right.  
19 Anyone else? Any challenges?

20 *MS. ULRICH:* Juror Number 23.

21 *THE COURT:* Twenty-three?

22 *MS. ULRICH:* Yeah. He's the one that has been  
23 assaulted by someone on marijuana. I'll strike him for cause.

24 *MS. TAYLOR:* Your Honor, I don't think he gave any  
25 answers that suggested that he couldn't be --

1           *THE COURT:* No, he didn't. He indicated that he's had  
2 more involvement than most. He has a brother, a brother-in-law  
3 that was convicted and a cousin who is a law enforcement  
4 official. I can inquire of him, as well, if you wish.

5           *MS. ULRICH:* No, not with him. Maybe just Juror  
6 Number 8.

7           *THE COURT:* All right. Juror Number 8, would you come  
8 up.

9           *(Prospective Juror Number 8 approaches sidebar.)*

10          *THE COURT:* Good morning again. I'm going to ask you  
11 to speak into this microphone so the court reporter can take  
12 down our conversation. How long ago was it that you lost your  
13 nephew?

14          *PROSPECTIVE JUROR:* Last summer.

15          *THE COURT:* So it's pretty recent.

16          *PROSPECTIVE JUROR:* Yes, it is.

17          *THE COURT:* Did he live locally?

18          *PROSPECTIVE JUROR:* Yes.

19          *THE COURT:* Were you close?

20          *PROSPECTIVE JUROR:* I didn't get to see him much.  
21 These young people, they run around. He was only 23.

22          *THE COURT:* Was it your sister's boy?

23          *PROSPECTIVE JUROR:* My sister-in-law --

24          *THE COURT:* Your brother's son?

25          *PROSPECTIVE JUROR:* My wife's sister's grandson. He

1 was living with her at the time, and she found him.

2           *THE COURT:* Okay. Your wife's sister's grandson. How  
3 close were you? You said that you didn't get to see him much.

4           *PROSPECTIVE JUROR:* No, but, you know, family things  
5 when he came. You know, these young people don't always come  
6 to the reunions and things.

7           *THE COURT:* Sure.

8           *PROSPECTIVE JUROR:* It was a shame. He was a  
9 good-looking kid who just got into drugs.

10           *THE COURT:* Before that, had drugs had an impact on  
11 your family?

12           *PROSPECTIVE JUROR:* No.

13           *THE COURT:* Obviously this case is about drugs.

14           *PROSPECTIVE JUROR:* I know.

15           *THE COURT:* The allegation that drugs have been  
16 distributed by someone who at one time was a law enforcement  
17 official. Given the background that you have, do you think  
18 that you can hold the government to the test of proving all of  
19 the elements beyond a reasonable doubt or do you have some  
20 reservation about your ability to weigh the evidence?

21           *PROSPECTIVE JUROR:* To be honest, I'd be partial  
22 against the drugs. I mean, I'm not a big drug --

23           *THE COURT:* Sure.

24           *PROSPECTIVE JUROR:* I don't like drugs. That's the  
25 deal.

1           *THE COURT:* If there's any doubt at all about your  
2 ability to be fair to both sides, to hold the government to  
3 their burden, that's something they would need to know. It  
4 would simply mean you may not be the right juror for this case.

5           *PROSPECTIVE JUROR:* Well, that's correct, that's what  
6 I think.

7           *THE COURT:* Okay.

8           *PROSPECTIVE JUROR:* It's sensitive --

9           *THE COURT:* Sure, I appreciate that.

10          *PROSPECTIVE JUROR:* -- the way I feel about drugs.

11          *THE COURT:* Ms. Taylor, do you wish to inquire?

12          *MS. TAYLOR:* No, Your Honor.

13          *THE COURT:* Thank you.

14          *(Prospective Juror Number 8 leaves sidebar.)*

15          *MS. ULRICH:* I would renew my request that he be  
16 stricken.

17          *THE COURT:* Yes, okay, I'm going to strike Juror 8 for  
18 cause, and then we'll proceed with the peremptory challenges.  
19 Okay?

20          *MS. ULRICH:* Thank you, Your Honor.

21          *(The discussion at sidebar was concluded.)*

22          *THE COURT:* Prospective jurors, you'll be happy to  
23 know that concludes the questioning in this case. The lawyers  
24 are now going to exercise their challenges, and then we will  
25 announce the names of those jurors who will be excused from

1 service in the case. This will take a few minutes, so all we  
2 have to do is sit quietly and wait for the lawyers to do their  
3 work.

4 *(Whereupon, a jury of twelve with two alternates was*  
5 *selected.)*

6 *THE COURT:* Jurors, I'm pleased to tell you that our  
7 selection process has concluded. I'm going to ask Ms. Weida to  
8 call the names of -- or the numbers of those jurors who are  
9 going to be excused from this case.

10 If your number is called and you're now seated in the  
11 box, I would ask that you leave the jury box and take a seat on  
12 the benches on this side of the courtroom. Ms. Weida.

13 *COURTROOM DEPUTY:* Juror Number 1, Juror Number 2,  
14 Juror Number 3, Juror Number 4, Juror Number 6, Juror Number 8,  
15 Juror Number 15, Juror 16, Juror 17, Juror 18, Juror 20, Juror  
16 21, Jurors 22 and 23, Juror 26, Juror 28, Juror 30, Juror 31,  
17 Juror 32, and Jurors 34, 35, 36, 37, 38, 39, and 40.

18 *THE COURT:* The jurors in the back, you can keep your  
19 seats there. Is the government satisfied with this jury,  
20 Ms. Taylor?

21 *MS. TAYLOR:* Yes, Your Honor.

22 *THE COURT:* Ms. Ulrich, is the defendant satisfied  
23 with this jury?

24 *MS. ULRICH:* Yes, Your Honor.

25 *THE COURT:* Ms. Weida, would you please swear the

1 jury.

2 COURTROOM DEPUTY: Please stand and raise your right  
3 hand.

4 (*Jury sworn.*)

5 COURTROOM DEPUTY: Thank you.

6 THE COURT: All right. Jurors, I think it's a good  
7 time for us to break for lunch. It's been a long morning.

8 When you come back, let me tell you what will happen.  
9 I'm going to give you some preliminary instructions, an  
10 overview of what you'll hear and how the case will progress,  
11 and then we'll start right into the case. We'll hear the  
12 opening statements of the lawyers, and we'll begin to hear the  
13 evidence.

14 Remaining prospective jurors, I am told that there is  
15 not another case in the courthouse today, so your jury service  
16 with us will conclude here. If you need to go back to the jury  
17 room, maybe you've left items there or you need to check in  
18 with the clerk and get your parking validated, please stop  
19 there on seven and see Ms. Campbell, the jury clerk.

20 Otherwise, I thank you and the lawyers thank you for  
21 your participation this morning and for your service to the  
22 Middle District. We'll be in recess until 1:30.

23 COURTROOM DEPUTY: Court is in recess.

24 (*Luncheon recess taken.*)

25 THE COURT: Counsel ready to proceed?



1           *MS. ULRICH:* Yes, Your Honor. We would just ask for a  
2 sequestration order.

3           *THE COURT:* All right. Are there witnesses now in the  
4 courtroom? Any witnesses are excluded.

5           Members of the jury, now that you've been sworn, I  
6 have some preliminary instructions that will guide you in your  
7 role in this trial. Under our system of justice, the role of  
8 the jury is to find the facts of the case based on the evidence  
9 presented in the trial. You must decide the facts only from  
10 the evidence presented to you in this trial.

11           From the evidence that you will hear and see in court,  
12 you'll decide what the facts are and then apply to those facts  
13 the law that I will give you in my final instructions. This is  
14 how you will reach your verdict. Whatever your verdict, it  
15 will have to be unanimous. All of you will have to agree on  
16 it, or there will be no verdict.

17           In the jury room, you'll discuss the case among  
18 yourselves, but ultimately each of you will have to make up his  
19 or her own mind. Therefore, each of you has a responsibility  
20 which you cannot avoid, and you should do your best throughout  
21 the trial to fulfill this responsibility.

22           I play no part in deciding the facts. You should not  
23 take anything that I might say or do during the trial as  
24 indicating what I think of the evidence or what I think your  
25 verdict ought to be. My role is to make whatever legal

1 decisions have to be made during the course of the trial and to  
2 explain to you the legal principles that must guide you in your  
3 decisions.

4           You must apply my instructions about the law. Each of  
5 the instructions is important. You must not substitute your  
6 own notion or opinion about what the law is or what the law  
7 ought to be. You must follow the law that I give to you  
8 whether you agree with it or not.

9           Jurors, perform these duties fairly and impartially.  
10 Don't allow sympathy, prejudice, fear, or public opinion to  
11 influence you in any way. You should also not be influenced by  
12 any person's race, color, religion, national ancestry, gender,  
13 occupation, economic circumstances, or position in life or in  
14 the community.

15           Here are some important rules about your conduct as  
16 jurors. First of all, keep an open mind. Don't make up your  
17 mind about the verdict until you've heard all of the evidence  
18 and I've given my final instructions about the law at the end  
19 of the trial and until you've discussed the case with your  
20 fellow jurors during your deliberations.

21           Do not discuss the case among yourselves until the end  
22 of the trial when you retire to the jury room to deliberate.  
23 You need to allow each juror the opportunity to keep an open  
24 mind throughout the entire trial. During the trial, you may,  
25 of course, talk with your fellow jurors about anything else of

1 a personal nature or of a common interest.

2 During the trial, you should not speak with any of the  
3 parties, lawyers, or witnesses involved in the case, not even  
4 to pass the time of day. If a lawyer, party, or witness  
5 doesn't speak to you when you pass them in the hall, ride the  
6 elevator, or the like, remember that it's because they're not  
7 supposed to talk or visit with you, either.

8 Do not talk with anyone else or listen to others talk  
9 about the case until the trial has concluded and until you've  
10 been discharged as jurors. It's important not only that you do  
11 justice in the case, but that you give the appearance of  
12 justice.

13 If anybody should try to talk to you about the case  
14 during the trial, please report that fact to me through my  
15 courtroom deputy immediately. Do not discuss this situation  
16 with any other juror, however.

17 Do not discuss the case with anyone outside the  
18 courtroom or at home, including your family and friends. You  
19 may tell your family or friends that you've been selected as a  
20 juror in a case, and you may tell them how long the trial is  
21 expected to last.

22 However, you should also tell them that the judge  
23 instructed you not to talk any more about the case and that you  
24 should not talk about it. The reason for this is that  
25 sometimes other people's thoughts can influence you. Your

1 thinking should be influenced only by what you learn in the  
2 courtroom.

3           Until the trial is over and your verdict is announced,  
4 do not watch or listen to any television or radio news programs  
5 or reports about the case or read any news or Internet stories  
6 or articles about the case or about anyone involved with the  
7 case.

8           Also, you must not do any research or make any  
9 investigation on your own about any matters relating to this  
10 case or this type of case. This means, for example, that you  
11 must not visit the scene, conduct experiments, consult  
12 reference works or dictionaries or search the Internet for  
13 additional information or use a computer, cellphone, or other  
14 electronic device or any other method to obtain information  
15 about the case, this type of case, the parties in the case, or  
16 anyone else involved in the case.

17           You must decide the case based only on the evidence  
18 presented in the courtroom and my instructions about the law.  
19 It would be improper for you to try to supplement that  
20 information on your own.

21           Do not use a computer, cellphone, or other electronic  
22 device while in the courtroom or during your deliberations.  
23 These devices may be used during breaks or recesses for  
24 personal uses but may not be used to obtain or disclose  
25 information about the case.

1           Finally, jurors, you should not concern yourselves  
2 with or consider the possible punishment that might be imposed  
3 if you return a verdict of guilty in this case.

4           During the trial, it might be necessary for me to  
5 speak with the lawyers out of your hearing. This is called a  
6 bench or a sidebar conference. If that happens, please be  
7 patient. We also ask that you advise me through my courtroom  
8 deputy if you're able to hear any of the bench or sidebar  
9 conferences, because the purpose is to hold these discussions  
10 outside the hearing of the jury for important reasons.

11           I know you may be curious about what we are discussing  
12 if that happens. We're not trying to keep important  
13 information from you. These conferences are necessary for me  
14 to discuss with the lawyers objections to evidence and to be  
15 sure that the evidence is presented to you correctly under the  
16 rules of evidence. We do what we can to keep the number and  
17 length of these conferences to a minimum. If I think the  
18 conference will be long, I'll call a recess for that purpose.

19           I may not always grant a lawyer's request for a bench  
20 conference. Do not consider my granting or denying a request  
21 for a conference as suggesting my opinion of the case or of  
22 what your verdict ought to be.

23           You'll make your decision in the case based only on  
24 the evidence that you see and hear in the courtroom. You must  
25 not let rumors, suspicious, or anything else that you might see

1 or hear outside the court influence your decision in any way.

2 The evidence from which you are to find the facts  
3 consists of the following: The testimony of the witnesses;  
4 documents and other things received as exhibits; and any fact  
5 or testimony that is stipulated to, that is, formally agreed to  
6 by the parties.

7 Jurors, the following things are not evidence:  
8 Statements and arguments of the lawyers for the parties in the  
9 case; questions by the lawyers and questions that I might ask.  
10 You must not assume that a fact is true just because one of the  
11 lawyers or I ask a question about it. It is the witness's  
12 answers that are evidence.

13 Of course, you may need to consider the question to  
14 know what a witness means by his or her answer. For example,  
15 if a witness answers "yes" to a question, you'll have to  
16 consider the question to understand what the witness is saying.

17 Objections by lawyers are not evidence, including  
18 objections in which the lawyers state facts. Any testimony  
19 that I instruct you to strike or I tell you to disregard is not  
20 evidence. Anything that you might see or hear outside the  
21 courtroom is not evidence.

22 Jurors, you'll use your common sense in weighing the  
23 evidence. Consider it in light of your everyday experience  
24 with people and events and give it whatever weight you believe  
25 it deserves. If your experience and common sense tell you that

1 certain evidence reasonably leads to a conclusion, you may  
2 reach that conclusion.

3 The rules of evidence control what can be received  
4 into evidence. When a lawyer asks a question or offers an  
5 exhibit into evidence and a lawyer on the other side thinks  
6 that it's not permitted by the rules of evidence, that lawyer  
7 may object. An objection simply means that the lawyer is  
8 asking me to decide whether the evidence should be allowed  
9 under the rules.

10 Lawyers have a responsibility to their clients to make  
11 objections when they think evidence being offered is improper  
12 under the Federal Rules of Evidence. You should not be  
13 influenced by the fact that an objection is made.

14 You should also not be influenced by my rulings on  
15 objections to evidence. If I overrule an objection, the  
16 question may be answered or the exhibit may be received as  
17 evidence, and you should treat the testimony or exhibit like  
18 any other.

19 I may allow evidence, testimony, or exhibits only for  
20 a limited purpose. If I do that, I'll instruct you to consider  
21 the evidence only for that limited purpose, and you must follow  
22 that instruction.

23 If I sustain an objection, the question will not be  
24 answered or the exhibit will not be received as evidence.  
25 Whenever I sustain an objection, you must disregard the

1 question or the exhibit entirely. Do not think or guess what  
2 the witness might have said in answer to the question. Do not  
3 think about or guess what the exhibit might have shown.

4 Sometimes a witness may have already answered before a  
5 lawyer objects or before I rule on the objection. If that  
6 happens and I sustain the objection, you should disregard the  
7 answer that was given.

8 Also, I may order that some testimony or other  
9 evidence should be stricken or removed from the record. If I  
10 do that, I'll instruct you to disregard that evidence. That  
11 means when you are deciding the case, you must not consider or  
12 be influenced in any way by the testimony or other evidence  
13 that I instructed you to disregard.

14 Although the lawyers may call your attention to  
15 certain facts or factual conclusions that they think are  
16 important, what the lawyers say is not evidence and is not  
17 binding on you. It is your own recollection and interpretation  
18 of the evidence that will control your decision.

19 Also, do not assume from anything I do or say during  
20 the trial that I have an opinion about the evidence or about  
21 any of the issues in the case or about what your verdict should  
22 be.

23 There are two types of evidence that may be used in  
24 this trial: Direct evidence and circumstantial evidence. You  
25 may use both types of evidence in reaching your verdict.



1           Direct evidence is simply evidence which, if believed,  
2 directly proves a fact. An example of direct evidence occurs  
3 when a witness testifies about something the witness knows from  
4 his or her own senses, something the witness has seen, touched,  
5 heard, or smelled.

6           Circumstantial evidence is evidence which, if  
7 believed, indirectly proves a fact. It is evidence that proves  
8 one or more facts from which you could find or infer the  
9 existence of some other fact or facts.

10          An inference is simply a deduction or conclusion that  
11 reason, experience, and common sense leads you to make from the  
12 evidence. An inference is not a suspicion or a guess. It's a  
13 reasoned, logical decision to find that a disputed fact exists  
14 on the basis of another fact.

15          For example, if someone walked into the courtroom now  
16 wearing a wet raincoat and carrying a wet umbrella, that would  
17 be circumstantial or indirect evidence from which you could  
18 conclude that it was raining. You would not have to find that  
19 it was raining out, but you could.

20          Sometimes different inferences may be drawn from the  
21 same set of facts. The government may ask you to draw some  
22 inference, and the defense may ask you to draw another. You  
23 and you alone must decide what inferences you will draw based  
24 on all of the evidence.

25          You should consider all the evidence that's presented

1 in this trial, both direct and circumstantial. The law makes  
2 no distinction between the weight that you should give to  
3 either direct or circumstantial evidence. It's for you to  
4 decide how much weight to give to any evidence.

5 In deciding what the facts are, you must decide what  
6 testimony you believe and what testimony you do not believe.  
7 You are the sole judges of the credibility of the witnesses.  
8 Credibility refers to whether a witness is worthy of belief.  
9 Is the witness truthful? Is the witness's testimony accurate?  
10 You may believe everything a witness says or only part of it or  
11 none of it.

12 You may decide whether to believe a witness based on  
13 his or her behavior and manner while testifying, the  
14 explanations the witness gives, and all the other evidence in  
15 the case just as you would in any important matter where you're  
16 trying to decide if a person is truthful, straightforward, and  
17 accurate in his or her recollection.

18 In deciding the question of credibility, remember to  
19 use your common sense, your good judgment, and your experience.  
20 In deciding what to believe, you may consider a number of  
21 factors: The opportunity and ability of the witness to see or  
22 hear or know the things about which the witness testifies; the  
23 quality of the witness's knowledge, understanding, and memory;  
24 the witness's appearance, behavior, and manner while  
25 testifying; whether the witness has an interest in the outcome

1 of the case or any motive, bias, or prejudice.

2           You may consider any relation the witness may have  
3 with the party in the case and any effect that the verdict  
4 might have on the witness.

5           You may consider whether the witness said or wrote  
6 anything before trial that is different from the witness's  
7 testimony in court; whether the witness's testimony is  
8 consistent or inconsistent with other evidence that you  
9 believe; and any other facts that bear on whether the witness  
10 should be believed.

11           Inconsistencies or discrepancies in a witness's  
12 testimony or between the testimony of different witnesses may  
13 or may not cause you to disbelieve that witness's testimony.  
14 Two or more people witnessing an event may simply see or hear  
15 it differently. Mistaken recollection, like failure to recall,  
16 is a common human experience.

17           In weighing the effect of an inconsistency, you should  
18 consider whether it is about a matter of importance or an  
19 insignificant detail. You should also consider whether the  
20 inconsistency is innocent or intentional. You're not required  
21 to accept testimony even if the testimony is not contradicted  
22 and the witness is not impeached.

23           You may decide that the testimony is not worthy of  
24 belief because of the witness's bearing or demeanor or because  
25 of the inherent improbability of the testimony or for other

1 reasons that are sufficient to you.

2 After you make your own judgment about the  
3 believability of a witness, you can then attach to that  
4 witness's testimony the importance or weight that you think it  
5 deserves. The weight of the evidence to prove a fact does not  
6 necessarily depend on the number of witnesses who testify.  
7 What is more important than numbers is how believable the  
8 witnesses are and how much weight you think their testimony  
9 deserves.

10 At the end of the trial, you must make your decision  
11 based on what you remember of the evidence. Although we have a  
12 court reporter here, you'll not have a written transcript of  
13 the testimony to review during the deliberations. You must pay  
14 close attention to the testimony as it is given.

15 If you wish, you're permitted to take notes to help  
16 you remember what witnesses said. We've made arrangements for  
17 pens, pencils, and papers. If you take notes, please keep them  
18 to yourself until the end of the trial when you and your fellow  
19 jurors go to the jury room to decide the case.

20 Here are some other specific points to keep in mind  
21 about note-taking: First of all, note-taking is permitted, but  
22 it is not required. You're not required to take notes. How  
23 many notes you want to take, if any, is entirely up to you. If  
24 you do take notes, please make sure that note-taking does not  
25 distract you from your duties as jurors. You must listen to

1 all of the testimony of each witness.

2           You also need to decide whether and how much to  
3 believe each witness. That will require you to watch the  
4 appearance, behavior, and manner of each witness while he or  
5 she is testifying. You cannot write down everything that's  
6 said, and there's always a fear that a juror will focus so much  
7 on note-taking that he or she will miss the opportunity to make  
8 important observations.

9           Remember that your notes are memory aids, they're not  
10 evidence. Notes are not a record or a written transcript of  
11 the trial. Whether or not you take notes, you'll need to rely  
12 on your own memory of what was said. Notes are only to assist  
13 your memory. You should not be overly influenced by your notes  
14 if you do decide to take them.

15           In your deliberations, you must not give any more or  
16 less weight to the views of a fellow juror just because that  
17 juror did or did not take notes. Don't assume that just  
18 because something is in someone's notes, that it necessarily  
19 took place in court. It's just as easy to write something down  
20 incorrectly as it is to hear or remember it incorrectly.

21           Notes are not entitled to any greater weight than each  
22 juror's independent memory of the evidence. You should rely on  
23 your own individual and collective memories when you deliberate  
24 and reach your verdict.

25           At the end of the trial, do not take your notes away

1 from the court. At the end of each day and during breaks,  
2 leave your notes in the jury room. At the conclusion of the  
3 case, after you've used your notes in deliberations, a court  
4 officer will collect and destroy them in order to protect the  
5 secrecy of your deliberations.

6 Jurors, I'm now going to briefly outline the charges  
7 brought against the defendant in this case. The government has  
8 charged the defendant, Christopher Mark Heath, with violating  
9 federal law, specifically Title 18, United States Code, Section  
10 924(c) (1) (A) and 1956(h), and Title 21, United States Code,  
11 Sections 841(a) (1) and 846.

12 Count 1 of the indictment charges Christopher Mark  
13 Heath with conspiracy to manufacture, distribute, and possess  
14 with the intent to manufacture and distribute 100 kilograms or  
15 more of marijuana in violation of Title 21, United States Code,  
16 Section 846. Title 21, United States Code, Section 846,  
17 provides, in relevant part, that it shall be unlawful for  
18 persons to conspire to commit any offense in violation of  
19 federal controlled substances law.

20 Count 2 charges Christopher Mark Heath with conspiracy  
21 to commit money laundering in violation of Title 18, United  
22 States Code, Section 1956(h). Title 18, United States Code,  
23 Section 1956(h), provides, in relevant part, that it shall be  
24 unlawful for persons to conspire to commit money laundering.

25 Title 18, United States Code -- Count 18 charges

1 Christopher Mark Heath with manufacturing, distributing, and  
2 possessing with the intent to manufacture and distribute  
3 marijuana in violation of Title 21, United States Code, Section  
4 841(a) (1) .

5 Title 21, United States Code, Section 841(a), provides  
6 that it shall be unlawful for any person knowingly or  
7 intentionally to manufacture, distribute, or dispense or  
8 possess with intent to manufacture, distribute, or dispense a  
9 controlled substance.

10 Count 19 charges Christopher Mark Heath with  
11 possession of a firearm in furtherance of drug trafficking in  
12 violation of Title 18, United States Code, Section  
13 924(c) (1) (A) . Title 18, United States Code, Section  
14 924(c) (1) (A) provides, in relevant part, that it shall be  
15 unlawful to possess a firearm in furtherance of a drug  
16 trafficking crime.

17 The charges against Christopher Mark Heath are  
18 contained in the indictment. An indictment is just the formal  
19 way of specifying the exact crimes a defendant is accused of  
20 committing. An indictment is simply a description of the  
21 charges against a defendant. It's an accusation only. An  
22 indictment is not evidence of anything, and you should not give  
23 any weight to the fact that Christopher Mark Heath has been  
24 indicted in making your decision in this case.

25 After the evidence has been presented, I'll instruct

1 you on the law in greater detail. At the end of the trial,  
2 I'll also give you final instructions on the elements of the  
3 offenses charged and on other matters of law. Those final  
4 instructions will be more detailed. They will guide you in  
5 reaching your verdict in this case.

6 As I mentioned, the defendant, Mr. Christopher Mark  
7 Heath, has pleaded not guilty to the offenses charged. The  
8 defendant is presumed to be innocent. He starts the trial with  
9 a clean slate with no evidence against him. The presumption of  
10 innocence stays with the defendant unless and until the  
11 government presents evidence that overcomes that presumption by  
12 convincing you that Christopher Mark Heath is guilty of the  
13 offenses charged beyond a reasonable doubt.

14 The presumption of innocence requires that you find  
15 the defendant not guilty unless you are satisfied that the  
16 government has proved guilt beyond a reasonable doubt. The  
17 presumption of innocence means that Christopher Mark Heath has  
18 no burden or obligation to present any evidence at all or to  
19 prove that he is not guilty. The burden or obligation of proof  
20 is on the government to prove that Christopher Mark Heath is  
21 guilty, and this burden stays with the government throughout  
22 the trial.

23 In order for you to find the defendant guilty of the  
24 offenses charged, the government must convince you that  
25 Christopher Mark Heath is guilty beyond a reasonable doubt.



1 That means that the government must prove each and every  
2 element of the offenses charged beyond a reasonable doubt. A  
3 defendant may not be convicted based on suspicion or  
4 conjecture, but only on evidence proving guilt beyond a  
5 reasonable doubt.

6 Proof beyond a reasonable doubt does not mean proof  
7 beyond all possible doubt or proof to a mathematical certainty.  
8 Possible doubts or doubts based on conjecture or speculation  
9 are not reasonable doubts. A reasonable doubt is a fair doubt  
10 based on reason, logic, common sense, or experience.

11 A reasonable doubt means a doubt that would cause an  
12 ordinary, reasonable person to hesitate to act in matters of  
13 importance in his or her own life. It may arise from the  
14 evidence or from the lack of evidence or from the nature of the  
15 evidence.

16 If, after hearing all of the evidence, you're  
17 convinced that the government has proved Christopher Mark Heath  
18 guilty beyond a reasonable doubt, you should return a verdict  
19 of guilty. However, if you have a reasonable doubt as to an  
20 element of an offense, then you must return a verdict of not  
21 guilty.

22 As you have heard, Christopher Mark Heath is charged  
23 with more than one offense. Each offense is charged in a  
24 separate count of the indictment. The number of offenses  
25 charged is not evidence of guilt, and this should not influence

1 your decision in any way.

2           You must separately consider the evidence that relates  
3 to each offense, and you must return a separate verdict for  
4 each offense. For each offense charged, you must decide  
5 whether the government has proven guilt beyond a reasonable  
6 doubt. Your decision on one offense, whether guilty or not  
7 guilty, should not influence your decision on any of the other  
8 offenses charged. Each offense should be separately  
9 considered.

10           The order of the trial's proceedings will be as  
11 follows:

12           In just a moment, the lawyers will have an opportunity  
13 to make opening statements to you. The prosecutor may make an  
14 opening statement at the beginning of the case. Defendant  
15 Christopher Mark Heath's lawyer may make an opening statement  
16 after the prosecutor's opening statement or the defendant may  
17 postpone the making of an opening statement until after the  
18 government has concluded presenting its evidence. Christopher  
19 Mark Heath is not required, through his lawyer, to make an  
20 opening statement.

21           The opening statements are simply an outline to help  
22 you understand what each party expects the evidence will show.  
23 What is said in opening statement, as I indicated prior, is not  
24 itself evidence.

25           After opening statements, the government will

1 introduce the evidence that it thinks proves the charges stated  
2 in the indictment. The government will present witnesses, and  
3 the defendant's lawyer may cross-examine those witnesses. The  
4 government may also offer documents and other exhibits into  
5 evidence.

6 After the government has finished presenting its  
7 evidence, which it signals by announcing "rest," the defendant  
8 may present evidence, but he is not required to do so. As I  
9 have told you, the government always has the burden or  
10 obligation to prove each and every element of the offenses  
11 charged beyond a reasonable doubt.

12 The defendant is presumed to be innocent of these  
13 charges. Therefore, the law never imposes on a defendant in a  
14 criminal case the burden of proving his innocence by calling  
15 any witnesses, producing any exhibits, or introducing any  
16 evidence.

17 Within certain limitations, the government may be  
18 permitted to again call witnesses or present evidence when the  
19 defendant rests during what we call the rebuttal phase of the  
20 trial. The government proceeds first and may rebut at the end  
21 because the law places the burden of proof upon the government.

22 After all of the evidence has been presented, the  
23 lawyers will have the opportunity to address you again in  
24 closing arguments. Closing arguments are designed to present  
25 to you the parties' theories about what the evidence has shown

1 and what conclusions may be drawn from the evidence. What is  
2 said in closing arguments is not evidence, just as what is said  
3 in opening statements is not evidence.

4 After you've heard the closing arguments, I'll give  
5 you the final instructions concerning the law that you must  
6 apply to the evidence presented during the trial. As I'm doing  
7 now, I may also give you instructions on certain aspects of the  
8 law throughout the trial, as well as at the end of the trial.

9 After my final instructions to you on the law, you'll  
10 retire to consider your verdict. Your deliberations are  
11 secret. You will not be required to explain your verdict to  
12 anyone. Your verdict, as I said, must be unanimous. All 12  
13 jurors must agree to it.

14 Jurors, thank you very much for your patience. Jury  
15 trials are the culmination of many months and sometimes years  
16 of preparation. The court and the parties have expended  
17 significant resources prior to coming here today.

18 Despite the lawyers' and the court's work in preparing  
19 the case to present it to you, I want to reemphasize that it's  
20 ultimately your role as jurors to determine the facts of the  
21 case. You must therefore try to be as attentive as you can be  
22 and keep an open mind until all of the evidence has been  
23 presented.

24 Don't make up your mind about any of the questions in  
25 the case until you've heard each piece of evidence and all of

1 the law that you must apply to that evidence, in other words,  
2 until you begin your final deliberations.

3 Our system of justice entrusts you, the jury, with the  
4 solemn responsibility of deciding the facts of the case, and,  
5 of course, it's your duty now to fulfill that responsibility.  
6 So I ask that you now give counsel your attention as I  
7 recognize them for the purpose of making their opening  
8 statements. For the government.

9 MS. TAYLOR: Thank you, Your Honor. May it please the  
10 court, good afternoon, ladies and gentlemen.

11 The defendant in this case, Christopher Mark Heath, is  
12 a drug dealer. In December of 2015, he came to the Middle  
13 District of Pennsylvania to deliver 18 large duffel bags that  
14 were full of marijuana to a customer that he had here in  
15 Pennsylvania, along with his co-defendants.

16 Now, this quantity of marijuana was enough to fill up  
17 the back of the F250 pickup truck that he was driving, and what  
18 you're going to hear is that it was about 89.5 kilograms of  
19 marijuana.

20 The evidence will show that he and his co-defendants  
21 grew this marijuana in California where they lived. They  
22 harvested it, they packaged it for sale, and they -- they were  
23 selling it, and they brought it here to Pennsylvania to  
24 distribute it, as well. But that's not how their organization  
25 started out.

1           Initially, they were selling their marijuana to this  
2       Pennsylvania customer through the mail. And you'll hear  
3       that -- you're going to hear about that from one of Mr. Heath's  
4       co-defendants, Tyler Long, because as you heard Judge Kane  
5       explain, the defendant is charged with conspiracy to distribute  
6       and possess with the intent to distribute a hundred kilograms  
7       of marijuana and more. And they managed to pull this off for a  
8       while, to mail packages from California to Pennsylvania to this  
9       customer, and then payment for these packages would be mailed  
10      back from Pennsylvania to California.

11           And what you're going to hear is the way they did that  
12      was because one of their other co-defendants was a U.S. postal  
13      employee. So that person was able to handle the packages and  
14      get them shipped without it being detected that it was  
15      marijuana. But eventually someone caught on, and they had to  
16      come up with a new plan. They had to make a change, and that's  
17      when they got caught.

18           So Mr. Heath and the two co-defendants that he was  
19      growing with, growing the marijuana with, harvesting it with,  
20      and packaging it with decided that they couldn't mail it  
21      anymore, so they were going to drive it out to Pennsylvania.  
22      They were going to drive the next load from California to  
23      Pennsylvania.

24           So what the evidence will show is that two of the  
25      co-defendants drove in one truck that had no drugs in it. And

1 they loaded all the drugs in these duffel bags in the  
2 defendant's truck, and he drove that one. He drove by himself  
3 in the truck that had all of the marijuana in it.

4 They arrived here in the Middle District in the York  
5 area on December 28th, 2015. They arrived close to midnight.  
6 They were at a house that they had never been before. They're  
7 delivering this shipment of what you're going to hear has a  
8 value of just under a half a million dollars. They're  
9 delivering it to a man that the three of them have never met  
10 before. These transactions have been set up via text message  
11 in an area that they are unfamiliar with.

12 But there are three of them. Mr. Heath is in one  
13 truck. There's another truck with his two co-defendants. And  
14 you'll also hear that the defendant has a gun. And as you've  
15 already heard, that's really why we're all here today. This  
16 case is really about the gun charge.

17 As Ms. Ulrich already told you, the drug charges in  
18 this case are uncontested. The fact that --

19 MS. ULRICH: Objection, Your Honor. If we may  
20 approach. May we approach?

21 *(The following discussion occurred at sidebar:)*

22 MS. ULRICH: There are a couple problems, but, one,  
23 they're not supposed to anticipate our defense, although I know  
24 you can because in voir dire I did open the door, but I never  
25 said that we agreed one hundred percent. I mean, that's

1 something that I'm expecting the government to prove. In  
2 opening, the government is not supposed to anticipate a  
3 defense, but, again, I opened the door in voir dire for that,  
4 but I never said anything about one hundred percent. So that's  
5 my objection.

6 *MS. TAYLOR:* Your Honor, the voir dire stated to the  
7 jury that the drug charges were uncontested.

8 *THE COURT:* She said he admits that he dealt drugs.  
9 What difference does it make? I mean, it makes a difference to  
10 her, but not to you. You don't need to say that in your  
11 opening.

12 *MS. TAYLOR:* Ms. Ulrich and I have had a number of  
13 conversations about this, and a number of emails have gone back  
14 and forth, and in the voir dire, it has changed. And what I  
15 said to her on a number of occasions is it makes a big  
16 difference in terms of what we put on in terms of testimony.

17 *THE COURT:* We had that conversation in chambers this  
18 morning, and you said you wanted to put on testimony of the  
19 drug charges.

20 *MS. TAYLOR:* Money laundering charge.

21 *THE COURT:* I heard her say prove all the charges.

22 *MS. ULRICH:* That's the thing the government does have  
23 to prove. We're putting the government to their burden of  
24 proof. It's improper for the prosecution to anticipate a  
25 defense in an opening statement because we have no burden



1       whatsoever. You just have to argue your case.

2               *MS. TAYLOR:* Your Honor, I'm happy to -- Mr. Terz and  
3 I have had this conversation, but our understanding, because I  
4 certainly would not say it otherwise and I would not have  
5 addressed the money laundering charges, is the drug charges  
6 were uncontested and that the money laundering and the gun  
7 charge were contested.

8               *MS. ULRICH:* We're not -- we're in the middle of a  
9 trial. I'm not admitting to anything. If I were admitting,  
10 I'd sign a stipulation. We're putting the government to the  
11 burden of proof. We're not contesting to a certain extent, but  
12 it's still your burden to prove it. I'm not relieving you of  
13 your burden.

14              *MS. TAYLOR:* Your Honor, I think I need to take a  
15 break, because I'm telling you, Mr. Terz and the agents and the  
16 witnesses are under a different impression.

17              *THE COURT:* I don't understand what that would  
18 accomplish.

19              *MS. TAYLOR:* The only thing that Ms. Ulrich and I have  
20 discussed is that the issue was that we would not -- she's  
21 stipulating that it's marijuana. The only thing we had an  
22 issue on was as to the weight and that we were going to put on  
23 Agent Myers about the weight. That was it.

24              *MS. ULRICH:* You have a burden to prove all the  
25 elements of the crimes charged. You should not be relying on

1    what I said we're not contesting. The burden is always with  
2    the government. That's what you should be arguing in your  
3    opening, what you're going to prove, not what we're going to  
4    do, what you're going to prove. It's improper for the  
5    government to anticipate a defense in their opening.

6           *THE COURT:* So I think we just need to move on. She's  
7    not -- we now have whatever clarification we need. She's not  
8    confessing to any of the charges.

9           *MS. TAYLOR:* Your Honor --

10          *THE COURT:* She's not conceding the full charges. The  
11   government has to prove everything.

12          *MS. TAYLOR:* And I'm happy to amend it and say they're  
13   largely uncontested.

14          *MS. ULRICH:* Just say what you're going to prove.

15          *MS. TAYLOR:* I'll just explain he confessed. I'll  
16   just explain the evidence will show he's confessed.

17          *MS. ULRICH:* You can say he gave a statement, this is  
18   what he said. You can talk about a statement he made to  
19   police. That's evidence you're going to present.

20          *MS. TAYLOR:* I'm just afraid the record is not clear.

21          *THE COURT:* The record is clear. I don't know how it  
22   could be more clear.

23          *MS. TAYLOR:* Very well.

24          *THE COURT:* Okay.

25          *(The discussion at sidebar was concluded.)*

1           MS. TAYLOR: Ladies and gentlemen, what you're going  
2 to hear in the evidence is that the defendant is a drug dealer.  
3 You're going to hear that he confessed to his drug dealing  
4 activities.

5           You're going to hear that he explained that right  
6 after the arrest to Detective Schauer, who was present at the  
7 time of his arrest and who, after giving him his Miranda  
8 rights, spoke with him for a period of just under two hours.  
9 And you'll see -- you'll hear from this detective, and you'll  
10 see a written statement that the detective took.

11          You'll also hear from that detective that during that  
12 statement, the defendant also talked about his engaging in the  
13 money laundering activities that he's charged with, and he  
14 admitted that the money that he was expecting to be paid for  
15 his drug trafficking activities was going to go, in part, to  
16 this winery business that he was going to use -- that he had  
17 bought for his wife.

18          Now, I want to talk just a minute about the gun  
19 charge. What is charged in this case is possession of a  
20 firearm, possession or carrying of a firearm in furtherance or  
21 during or in relation to drug trafficking.

22          What the government has to establish for that charge  
23 beyond a reasonable doubt are basically three elements: That  
24 the defendant was engaged in drug trafficking, which you'll  
25 hear that he himself admitted to; that while he was engaged in

1 the drug trafficking, that he knowingly possessed a firearm;  
2 and, finally, that the possession of that firearm was in  
3 furtherance of drug trafficking or in relation to a drug  
4 trafficking crime.

5 Now, Judge Kane, at the end of all the evidence, is  
6 going to give you very detailed instructions on what each of  
7 these elements mean. But before you hear from the witnesses  
8 and see the evidence, I just wanted to touch on some of these  
9 definitions just briefly so you have an idea of what you're  
10 looking for.

11 So possession, in a legal sense, can come in two  
12 forms. You can have actual possession of something where  
13 you're physically holding something, or you can have  
14 constructive possession. With constructive possession, you  
15 have the power and intention to control an object. And if the  
16 firearm is within the defendant's possession -- within the  
17 defendant's control, then he was in possession of it. For the  
18 definition of carrying under this count that the defendant is  
19 charged with in the indictment, if he possessed the firearm,  
20 then he was carrying it.

21 Now, in order to know whether the government is going  
22 to meet the elements of this charge beyond a reasonable doubt,  
23 you need to know the rest of the story. What the evidence is  
24 going to show is that when the defendant and his co-defendants  
25 drove this truckload of marijuana out to the York area back in

1 December of 2015 for this Pennsylvania customer, law  
2 enforcement was notified and was waiting.

3 The defendant was taken into custody at that time.  
4 There was an undercover detective present at the scene. You're  
5 going to hear from him, as well. He will explain exactly how  
6 everything occurred, how both trucks were present, who was in  
7 each truck. You're going to hear from Mr. Heath's  
8 co-defendant, who was also in the other truck without the  
9 marijuana.

10 You'll hear -- you'll see the physical evidence that  
11 was seized as a result of the arrest that night. You'll see  
12 the gun that was recovered, and you'll hear from the detective  
13 who recovered it from Mr. Heath's truck. And it was found in  
14 the backseat of his truck in his suitcase, in the outer zipper  
15 pocket, just in the backseat right behind the driver's seat.  
16 He'll explain where it was found.

17 You'll see the gun, the loaded -- the magazines that  
18 were with it, and you'll see at least a sample of the marijuana  
19 that was taken out of the truck. You're going to see how large  
20 a box at least a portion of the marijuana fit in. And you'll  
21 hear that the total would fill up, does fill up 27 of those  
22 boxes, which, for everyone's sake, we won't be bringing in the  
23 courtroom, primarily for the smell.

24 When you hear from Mr. Heath's co-defendant, Tyler  
25 Long, he's going to tell you more, though, than just about that

1 particular trip. He's going to be able to tell you about his  
2 relationship with Mr. Heath. He's going to tell you about  
3 other trips where Mr. Heath drove for him, where he delivered  
4 other truckloads of marijuana.

5 He's going to tell you about other instances where  
6 Mr. Heath brought marijuana to him for him to sell that he had  
7 gotten from his employment as a deputy sheriff. And you'll see  
8 and hear a lot of stipulations in this case, because as you've  
9 heard, there are a lot of facts that just simply aren't  
10 contested.

11 You'll also see that the gun in the case in terms of  
12 the possession element was just behind the front seat, in the  
13 backseat, where you'll have to make a determination as to  
14 whether it was accessible. And what you'll hear from the judge  
15 at the end of the trial is that there are a number of factors  
16 that will be given to you that will help you determine whether  
17 the possession of this firearm was in furtherance of drug  
18 trafficking.

19 And some of those factors are: The accessibility of  
20 the firearm, the type of firearm, the type of criminal act that  
21 was occurring, whether it was loaded, the proximity to drugs,  
22 and the circumstances where the firearm was found.

23 You'll also see that on this trip, besides the  
24 stipulations that indicate that the gun is, in fact, registered  
25 to Mr. Heath and owned by him, you'll also see that his badge

1 from his employment as a deputy sheriff with Yuba County was  
2 found in the center console of the truck, as well.

3 And as Judge Kane told you, at the end of all the  
4 evidence, I'll have an opportunity to stand before you again  
5 and discuss what you've heard, discuss all the evidence, the  
6 witnesses that you've heard and the evidence that you've seen,  
7 and I'll ask you to convict Mr. Heath of all of the charges  
8 that he's facing. Thank you.

9 *THE COURT:* Ms. Ulrich.

10 *MS. ULRICH:* Thank you. May it please the court,  
11 Ms. Taylor, Mr. Terz, ladies and gentlemen of the jury, this is  
12 a case about mere possession. And when I say "mere  
13 possession," I mean mere possession of the firearm.

14 Mr. Heath -- and by the way, his name is -- I call him  
15 Mark Heath, so if I say Mark Heath, I mean Christopher Mark  
16 Heath. Mr. Heath does not dispute that he conspired with Tyler  
17 Long to distribute marijuana. Mr. Heath does not dispute that  
18 he took some proceeds from the sale of marijuana and put it  
19 into a failed winery business.

20 What he does dispute is whether or not he possessed --  
21 what he does dispute is that he possessed a firearm in  
22 furtherance of drug trafficking or that he used or carried the  
23 firearm during, in relation to drug trafficking.

24 Now, those terms seem pretty straightforward. Carry,  
25 the gun was in the truck, he carried, he possessed it. I mean,

1    what else is there? But in the legal definition, it's not just  
2    a matter of whether or not he carried or possessed the firearm,  
3    and the court will give you the law on this.

4           The standard is that -- the question is whether he  
5    possessed the firearm in furtherance of drug trafficking. Mere  
6    presence of a firearm is not enough for a conviction for  
7    possession in furtherance of drug trafficking. That firearm  
8    has to be there to promote, advance, and assist the goals of  
9    drug trafficking.

10           And there are a number of factors that the court will  
11   tell you that you can consider in deciding whether a firearm is  
12   possessed in furtherance of drug trafficking. And Ms. Taylor  
13   gave you a few, but there are a few others that you need to  
14   consider. And that is whether the gun was stolen. In this  
15   case, you'll find the gun was not stolen. In fact, it was  
16   registered to Mr. Heath.

17           The other question -- the other factor you can  
18   consider is whether it was a lawfully possessed firearm. And  
19   you will hear, through the course of the evidence, that this  
20   was a lawfully possessed firearm. In fact, you can consider  
21   all the surrounding circumstances to decide whether a firearm  
22   was possessed in furtherance of drug trafficking.

23           The other standard is whether he used or carried a  
24   firearm during and in relation to drug trafficking. And,  
25   again, a lot of the factors are the same. The question is, did



1     it have -- was the purpose or effect in relation to a drug  
2     trafficking crime? Did the firearm facilitate or have the  
3     potential of facilitating the drug trafficking crime?

4             And, again, you can consider a number of factors in  
5     deciding whether or not that gun was carried in relation to a  
6     drug trafficking crime. The government has the burden, as  
7     you've already heard, the burden to prove each and every  
8     element of the crime charged beyond a reasonable doubt.

9             The evidence is going to show Mr. Heath is 38 years  
10    old. He grew up in the Midwest. He went into the Marine Corps  
11    in 1998, and he was in the Marine Corps from about 1998 to  
12    2002. And when he was in the Marine Corps, he met his now  
13    wife, Tatum Long.

14            Tatum Long is the sister of Tyler Long, an individual  
15    that you heard about in Ms. Taylor's opening. It's actually --  
16    he was the one who had the connection in York County. He's the  
17    one that set up the drug transaction with this individual.  
18    He's the one that knew the individual in York, Tyler Long.  
19    Mr. Heath is married to his sister, Tatum Long. They met in  
20    the Marine Corps. They have two children, Sydney, who is 14,  
21    and Trinity, who is eight.

22            After they got married, they moved to California.  
23    That's where the Longs are from. The other co-defendant in  
24    this case is Ramona Long. She happens to be the mother of  
25    Tyler Long and Tatum Long. They moved to California where the

1 Longs reside. When he got there, he worked in a sawmill for a  
2 time, and then he did start working for the Yuba County  
3 Sheriff's Department, and that was in about 2003.

4 And he is not proud of that fact, that this occurred  
5 while he was in the sheriff's department. He knows that's a  
6 bad thing. It gives all police officers bad names, and, of  
7 course, he totally regrets it. He knows he misused the office,  
8 he knows he ruined his life, and he knows he ruined his family.  
9 But he is taking responsibility for what he did. He did wrong,  
10 and there's no doubt about it.

11 And he admits, of course, I've already told you, that  
12 he was dealing in marijuana while he was a sheriff, but it's  
13 the firearm that I want you to look at. It was a .40 caliber  
14 Glock. It was a gun that was lawfully possessed and legally  
15 carried. In fact, the Yuba County Sheriff's Department -- and  
16 you will hear this -- had regulations for their sheriffs and  
17 what they had to do in order to carry firearms off duty.

18 They had to get certified to carry that gun over the  
19 course of their employment with the sheriff, and that's  
20 something he did, and that's something you're going to hear.  
21 Through the course of his time in the sheriff's department, he  
22 qualified to carry this same handgun, this .40 caliber Glock,  
23 and you'll see that.

24 They have regs, regulations, regarding carrying off  
25 duty, and they're permitted, he followed those regulations,

1 regulations regarding the storage of these firearms at home,  
2 regulations concerning the carrying of these firearms out of  
3 state. He complied with these regulations.

4 He had a gun on December 28th, and, yes, there was  
5 marijuana in the bed of his truck. Mr. Heath carried this gun  
6 not just when there was marijuana, it was something he did. He  
7 carried this gun when he was off duty. If that means he was  
8 running an errand or he was in California doing personal  
9 business unrelated to marijuana, he carried that gun.

10 This gun was not possessed in furtherance of drug  
11 trafficking, nor was it carried during, in relation to a drug  
12 trafficking crime. That was not his intent in having that gun  
13 with him, and that is what the evidence is going to show.

14 And at the end of this case, after you've listened to  
15 all the evidence, considered all the factors, we are going to  
16 be asking that you find him not guilty of possessing a firearm  
17 in furtherance of drug trafficking and not guilty of carrying  
18 that firearm during, in relation to drug trafficking. Thank  
19 you.

20 *THE COURT:* Thank you, counsel. The government's  
21 first witness.

22 *MS. TAYLOR:* The United States would call Detective  
23 Russell Schauer.

24 *RUSSELL SCHAUER, called as a witness, having been duly*  
25 *sworn or affirmed, testified as follows:*

1           *COURTROOM DEPUTY:* For the record, please state your  
2 full name.

3           *THE WITNESS:* It's Russell Schauer, S-c-h-a-u-e-r.

4           *COURTROOM DEPUTY:* Thank you. You may be seated.

5                               DIRECT EXAMINATION

6 BY MS. TAYLOR:

7 Q. Good afternoon, sir. Could you tell the ladies and  
8 gentlemen of the jury how you're employed?

9 A. I'm a detective with the Springettsbury Township Police  
10 Department. It's a department in York County, Pennsylvania.

11 Q. And how long have you been with Springettsbury?

12 A. I've been there since December of 2003.

13 Q. Are you affiliated with any task force?

14 A. I am. Since March of 2008, I've been assigned as a  
15 full-time member to the York County Drug Task Force. The drug  
16 task force primarily investigates drug cases; however, we do  
17 get involved with some other crimes, such as thefts and guns.

18 Q. Now, I don't know if you can see over the podium, but do  
19 you recognize anyone at the defense table over here?

20 A. I do.

21 Q. And who is that?

22 A. It's Christopher Mark Heath, the subject seated at the  
23 trial table wearing a green shirt and a blue tie.

24 Q. How do you know Mr. Heath?

25 A. Through an investigation December 28th, 2015.

1 Q. Were you involved in arresting the defendant?

2 A. I was.

3 Q. Can you explain to the jury how that investigation and  
4 Mr. Heath's arrest came about?

5 A. Sure. In the middle of December of 2015, myself and Travis  
6 Shearer, another police officer, met with a confidential  
7 informant who relayed to us that they were obtaining large  
8 quantities of marijuana --

9 MS. ULRICH: Your Honor, objection to anything the  
10 informant said. That's hearsay.

11 THE COURT: Sustained.

12 BY MS. TAYLOR:

13 Q. When you -- you and Sergeant Shearer learned through your  
14 investigation that there was an individual receiving marijuana  
15 shipments in this area. Right?

16 A. Yes.

17 Q. Did you learn from that informant where the marijuana  
18 shipments were coming from?

19 MS. ULRICH: Your Honor, objection. I mean, she's  
20 asking him to do the same thing. It's hearsay.

21 THE COURT: Sustained.

22 BY MS. TAYLOR:

23 Q. Based on your investigation with the informant, did you set  
24 up a controlled purchase involving marijuana?

25 A. Yes.

1 Q. And that was around mid to late December of 2015?

2 A. Yes, ma'am.

3 Q. How were those -- how was that transaction set up?

4 A. It was set up through phone calls and text messages.

5 Q. Those phone calls and text messages, did you -- the text  
6 messages, anyway, were those memorialized?

7 A. Yes.

8 Q. Was there a payment that had to be made out to the  
9 California source?

10 A. Yes.

11 Q. Who was the California source?

12 A. Tyler --

13 MS. ULRICH: Objection, unless he's going to  
14 explain -- you know, there's no foundation is my objection.

15 THE COURT: Yes. Let's have foundation. First of  
16 all, Detective, can you explain the controlled purchase? What  
17 is that? How does it work?

18 THE WITNESS: A controlled purchase is just that, the  
19 police are controlling the purchase of something, a commodity.  
20 In our business, it's drugs. So we're controlling that by --  
21 first off, we take money, we call it official funds. So we'll  
22 take some money and we'll photocopy or photograph or somehow  
23 record all the serial numbers of that money.

24 And then we will control the person who is going to  
25 purchase those narcotics using our money, our official funds.

1 So the whole process is controlled by police, by us viewing the  
2 actual purchase take place.

3 *THE COURT:* And how did you apply that here?

4 *THE WITNESS:* We applied that here, we knew that  
5 \$7,000 had to go to California to obtain a large amount of  
6 marijuana, so I photographed, myself and Detective Shearer, we  
7 photographed the \$7,000.

8 The money had to be packaged a specific way. The  
9 money was vacuum-sealed in one bag. It was then put into  
10 another vacuum-sealed bag with dryer sheets. All the edges  
11 were duct-taped. It was then taken to a post office, put in  
12 priority mail, and sent to California using a tracking number.

13 BY MS. TAYLOR:

14 Q. And at some point were you informed that the marijuana  
15 shipment was being delivered here?

16 A. Yes.

17 Q. Did you receive a specific date, or were you informed on  
18 the date?

19 A. I was informed on the date, that date being December 28th,  
20 2015.

21 Q. Did you know how much marijuana you were expecting?

22 A. No. I knew an approximate weight but not a definite  
23 number.

24 Q. And how was it coming, through the mail?

25 A. It was being driven -- originally, it was coming through

1 the mail. But on this particular date, it was being driven  
2 from California to Pennsylvania.

3 Q. And were you yourself expected to take delivery of it?

4 A. Not me, but an undercover officer posing as a worker for  
5 the York County side would have taken possession of it.

6 Q. For the actual delivery, were you present?

7 A. I was close to the actual delivery. I was about a hundred  
8 yards away.

9 Q. What was your role on that evening?

10 A. My role is what we would consider an eyeball. I was at a  
11 distance away, and I was watching what was taking place. Like  
12 I said, we had an undercover officer, that being Travis  
13 Shearer. He was at the exact location watching what was  
14 happening.

15 Q. Were you able to see the vehicles with the marijuana  
16 shipment arrive?

17 A. I did.

18 Q. And what type of vehicles did the marijuana arrive in?

19 A. They were two Ford F250 trucks.

20 Q. So when they arrived, what happened?

21 A. When they initially arrived, this kind of sets the stage at  
22 the informant's house. It's a very rural part of York County.  
23 This was at 11 o'clock at night in December, and it was  
24 raining, very dark.

25 Two trucks were traveling south. They traveled south



1 past the informant's house in tandem, one behind one another,  
2 at a very slow pace. The informant's house wasn't clearly  
3 marked, so we could immediately tell that these trucks were  
4 looking for the informant's house.

5 They traveled about a hundred yards down the road,  
6 turned around, came by the informant's house again at the same  
7 slow pace. We saw them turn around again and now go back to  
8 the informant's house except this time they turned into the  
9 driveway of the informant's residence.

10 Q. Now, before they arrived, did you know how many people to  
11 expect to make the delivery?

12 A. I knew one for sure. I suspected two based on text  
13 messages that were received.

14 Q. And did you know who the people would be?

15 A. No.

16 Q. When the two trucks pull into the driveway of the  
17 residence, what happened then?

18 A. I received information from Detective Shearer. He was  
19 going to notify me, give me a signal once he observed marijuana  
20 in either one of the vehicles. He observed the marijuana and  
21 then gave me that signal. That signal was him illuminating the  
22 lights of his vehicle by the remote. He gave the signal, and  
23 we approached into the informant's residence.

24 Q. Now, besides Detective Shearer, who was the undercover  
25 officer, were you the only other officer present?

1 A. No, there were several other officers present as far as  
2 what we would call an arrest team.

3 Q. So when Detective Shearer gave the signal that he had  
4 observed the marijuana, you and the other officers on the  
5 arrest team approached the house. Is that right?

6 A. Yes.

7 Q. And when you did that, what happened?

8 A. As we approached, I detained the informant, who was at that  
9 point directly in front of my vehicle. I then observed two  
10 trucks, one being a silver Ford F250. To the right side of the  
11 bed of the truck was Mr. Heath. I observed Officer Miller  
12 arrest him and Trooper Dembowski obtain property off of him.

13 I provided him with Miranda warnings, asked him his  
14 name. He stated Christopher Heath. And I moved on to another  
15 person who was identified as Tyler Long. I arrested him and  
16 provided him with Miranda warnings.

17 Q. At the time when you first encountered the defendant on the  
18 scene and gave him his Miranda warnings, did he inform you that  
19 he was employed as a deputy sheriff?

20 A. No.

21 Q. Did he say anything to you about being there in his  
22 capacity as a law enforcement officer?

23 A. No.

24 Q. You said that your first action was to take the informant  
25 into custody. Why did you do that?

1 A. We arrested the informant to try to make it look good, to  
2 try to give the impression at that particular time that the  
3 informant has nothing to do with why these subjects are under  
4 arrest.

5 Q. Certainly at the time that you and the other officers are  
6 taking the -- what turned out to be three individuals into  
7 custody, you want the scene to stay as safe and secure as  
8 possible. Right?

9 A. Yes, ma'am.

10 Q. How about the undercover officer, what happened with him?

11 A. Another officer, a uniformed officer did arrest him, which  
12 I wasn't present for.

13 Q. Why would an undercover officer be taken into custody?

14 A. For the same reason, it's to give the appearance that these  
15 people are not involved with the actual arrest of the people  
16 from California, as well as to protect the informant.

17 Q. So once the three individuals who were driving the vehicles  
18 were taken into custody, what happened?

19 A. We also observed -- when they were being taken into  
20 custody, Tyler Long was put into my vehicle. There were some  
21 black bags and some duffel bags that were on the ground. Those  
22 were placed into the silver truck. Three of them were placed  
23 into my truck. And everybody, to include the vehicles, were  
24 all transported to the Penn Township Police Department.

25 Q. So in terms of going through anything of evidentiary value

1 or trying to determine what was in any of the bags, was any of  
2 that done on the scene right there?

3 A. No.

4 Q. I think you mentioned before it was raining. Right?

5 A. Yes.

6 Q. And it was what time of day?

7 A. This would have been almost midnight, I believe 11:50,  
8 11:55 p.m.

9 Q. So everyone and all the items, including the vehicles, were  
10 taken back to the station?

11 A. Yes.

12 Q. Did you transport Mr. Heath or either of the other  
13 co-defendants?

14 A. I transported Tyler Long.

15 Q. Once you got back to the station, what did you do?

16 A. Once we got back to the station, I began interviewing Tyler  
17 Long, questioning as far as why he was here, what he was doing,  
18 who were the other two people that were with him. And he just  
19 kind of said he was here --

20 MS. ULRICH: Objection to anything Mr. Long said.  
21 That's hearsay.

22 THE COURT: Counsel.

23 BY MS. TAYLOR:

24 Q. Now, before you spoke with Mr. Long, did you provide him  
25 with his Miranda rights?

1 A. I did.

2 Q. Both when you Mirandized Mr. Heath on the scene and  
3 Mr. Long at the station, were these rights given verbally or  
4 did you provide them with a Miranda form?

5 A. It was verbally.

6 Q. Is that your standard practice?

7 A. Yes, ma'am.

8 Q. When you interviewed Mr. Long at the station, was his  
9 interview recorded?

10 A. No.

11 Q. Any particular reason why not?

12 A. No. I'm not sure if Penn Township has recording devices.  
13 I know our agency does not use them.

14 Q. Did you take efforts to memorialize what Mr. Long told you  
15 in his interview?

16 A. I did.

17 Q. And how did you do that?

18 A. I began to take notes as far as what Mr. Long was telling  
19 me. And at one point -- I believe I only wrote, like, one  
20 sentence, and at one point he said that --

21 MS. ULRICH: Objection to what Mr. Long said. I don't  
22 know if you mean to ask about Mr. Heath, but she's asking what  
23 Mr. Long said. That's hearsay.

24 MS. TAYLOR: No, I wasn't asking about what Mr. Long  
25 said. I was just asking if he memorialized the interview of

1 Mr. Long.

2 *THE COURT:* All right.

3 BY MS. TAYLOR:

4 Q. Let me ask it this way, did you do a report about your  
5 interview of Mr. Long?

6 A. I did.

7 Q. And that was done shortly after the interview. Right?

8 A. Yes.

9 Q. After speaking with Mr. Long for a bit, where did you go  
10 next?

11 A. I stepped out of the interview room to go speak with the  
12 other officers to see how the other defendants or other people  
13 were responding to the interviews. I was approached --

14 Q. Wait, I'm sorry, let me interrupt you. Could you explain  
15 to the jury where the other defendants were?

16 A. Yes. I was interviewing Tyler Long in one room. In a  
17 separate room was a subject by the name of Ryan Falsone, and in  
18 a third room was Christopher Heath. All three of them were  
19 being interviewed by three different officers. So when I  
20 stepped out of my room, I went to go speak with those other  
21 officers to see how they were responding to the questions.

22 Q. When you got to the room where you knew Mr. Heath was  
23 located, what happened?

24 A. I was approached by Officer Miller. She stated that she  
25 obtained information from Christopher Heath, personal

1 information as far as his name and date of birth, and through  
2 that questioning, she realized that he was a police officer or  
3 a sheriff in Yuba County, California.

4 Q. Now, when you first learned that, did you have any initial  
5 thoughts about what might be going on?

6 MS. ULRICH: Objection to relevancy, Your Honor,  
7 "thoughts."

8 THE COURT: Sustained.

9 BY MS. TAYLOR:

10 Q. Explain what you did at that point and why.

11 A. I myself went in to speak with Mr. Heath to get a feel if  
12 we were maybe stepping on each other's toes, if this was his  
13 investigation, that he was actually working an investigation  
14 and that we may have stepped on that. I really wasn't thinking  
15 that --

16 MS. ULRICH: Objection again. What he's thinking is  
17 speculation.

18 THE COURT: Sustained.

19 BY MS. TAYLOR:

20 Q. Did you go in to -- at that point did you go in to  
21 interview Mr. Heath?

22 A. I did.

23 Q. Was he willing to talk to you?

24 A. He was.

25 Q. Without the presence of an attorney?

1 A. Yes.

2 Q. That interview, was it recorded?

3 A. No.

4 Q. But did you memorialize it?

5 A. I don't believe I memorialized that portion of the  
6 interview. I did go back and interview him later.

7 Q. Did you do a report that memorialized it?

8 A. Yes.

9 Q. When you said you didn't memorialize it, are you referring  
10 to a written statement?

11 A. Yes.

12 Q. Which we'll get to that later. But during the first  
13 portion of your interview, Mr. Heath, what did he tell you?

14 A. Kind of some background information. He identified himself  
15 as a sheriff's deputy for the Yuba County Sheriff's Department,  
16 Northern California, stated that he's been there for 12 years.  
17 He was a narcotics detective. His primary investigation was  
18 marijuana cultivation, identified some agencies that he's  
19 worked with before and just kind of general background  
20 information.

21 Q. At any point during the beginning of your interview did he  
22 tell you that he was working undercover?

23 MS. ULRICH: Objection to the leading nature, Your  
24 Honor.

25 THE COURT: Sustained.



1 BY MS. TAYLOR:

2 Q. What did he tell you about why he was -- in the first  
3 portion of your interview, what did he tell you about why he  
4 was present in the York area that evening?

5 A. He stated that he was just helping out his brother-in-law,  
6 Tyler.

7 Q. Did he give you any explanation as to why he was doing it?

8 A. Yes. He had stated that through his years of working drug  
9 investigations, he was approached by the cartel. He had a  
10 specific investigation against the cartel group, and they had  
11 told him to stop or else. He wasn't able to explain to me what  
12 "or else" meant.

13 He presented this concern to his supervisors, and they  
14 looked at the case, looked at the concern, and stated that it  
15 looks like a good case, and they told him to just continue on  
16 with the investigation. He felt threatened by the cartel, so  
17 he put the case -- he said it was on a notebook, and it's been  
18 left on his desk at work ever since.

19 I had asked him if he had -- if he felt that  
20 threatened and his supervisors weren't giving him any relief  
21 from it, then why wouldn't he go to a federal agency or ask to  
22 be reassigned, instead of doing narcotics work, just go back to  
23 patrol and write traffic tickets or something, and he stated  
24 that it wasn't that easy, he worked for a 55-man department,  
25 and it's just not that easy to move around.

1           He also stated that the threats would still come. As  
2 the threats would continue to come, they then came with a  
3 demand of money. So now the cartel is calling Mr. Heath and  
4 demanding him to pay \$50,000 or else. Again, he couldn't  
5 substantiate what "or else" meant.

6           So now Mr. Heath has turned to delivering marijuana  
7 throughout the United States to obtain \$50,000 or more so that  
8 he could pay the cartel.

9 Q. During this portion of your interview with Mr. Heath,  
10 describe his demeanor.

11 A. I did not believe a word that Mr. Heath --

12           *MS. ULRICH:* Objection to anything he believed --

13           *THE COURT:* Sustained.

14           *MS. ULRICH:* -- or didn't believe.

15           *THE COURT:* Sustained.

16 BY MS. TAYLOR:

17 Q. Just describe physically what he was doing.

18 A. As I was talking with Mr. Heath, he had a longer beard at  
19 the time, and he just kept kind of stroking his beard. He  
20 would look at his handcuffs and let them fall onto the table  
21 repeatedly as we were talking. I would classify it as  
22 dramatic, overexaggerated.

23           *MS. ULRICH:* Objection, Your Honor. He continues to  
24 offer these gratuitous comments that are not relevant.

25           *MS. TAYLOR:* Your Honor --

1           *THE COURT:* It's responsive to the question of his  
2 demeanor. The witness will be permitted to answer, and the  
3 answer stands. Your next question, counsel.

4 BY MS. TAYLOR:

5 Q. So you can continue, Detective, describing his demeanor  
6 while you were --

7 A. Just to reiterate, it was the continued stroking of his  
8 beard, the staring at the handcuffs and letting the hands fall  
9 onto the table to kind of make a loud noise. As we would be  
10 talking, his hands would fall into his head like this, and then  
11 he would -- as his hands are in his head, he'd kind of peek up  
12 and then back down.

13 Q. Now, at some point in your interview with him, did you  
14 actually end speaking with him to go back and talk with  
15 Mr. Long?

16 A. Yes.

17 Q. About how long do you think that first, first phase, I'll  
18 call it, of your interview of Mr. Heath lasted?

19 A. About a half hour or 45 minutes.

20 Q. At some point when you -- after you had left and you had  
21 gone to speak with Mr. Long, did Detective Shearer come and  
22 tell you that Mr. Heath wanted to talk to you again?

23 A. Yes.

24 Q. And did you, in fact, go back and speak with the defendant  
25 a second time?

1 A. I did.

2 Q. During the second phase of your interview with Mr. Heath,  
3 what happened?

4 A. He -- as soon as I entered the room, I asked him what he  
5 would like, and he rephrased it back to me and asked what I  
6 wanted from him. And I told him that he's been doing narcotic  
7 work, drug investigations for as long as I have, he knows the  
8 questions that I have for him, and he knows the answers that I  
9 want to them.

10 I said, it's very simple, I want to know why you came  
11 to Pennsylvania, why you have drugs in your truck, and I  
12 believe I asked him a series of questions which I documented on  
13 a piece of paper him answering.

14 Q. Now, these questions that you documented, did you write  
15 them? Was this something that you wrote or something he wrote?

16 A. It's something -- the beginning of the statement is  
17 something that I wrote. There is one last question which he  
18 wrote.

19 Q. And this document, did you sign it?

20 A. Yes, ma'am.

21 Q. And did Mr. Heath sign it?

22 A. He did.

23 Q. I'm going to show you what's been marked as Government's  
24 Exhibit 12, hopefully. While that's coming up, let me ask you  
25 this, this second phase of your interview with Mr. Heath, how

1 long did it last? You said the first portion lasted like a  
2 half hour?

3 A. Yes.

4 Q. The second portion of your interview with Mr. Heath, how  
5 long did it last?

6 A. I would say 40 minutes, 45 minutes to an hour.

7 Q. Okay. Do you see Government's Exhibit 12?

8 A. I do.

9 Q. And do you recognize that?

10 A. I do.

11 Q. What is it?

12 A. This is a written statement that I obtained with  
13 Christopher Mark Heath.

14 Q. Now, the handwriting that appears on -- that's Page 1,  
15 whose handwriting is that?

16 A. That's my handwriting.

17 Q. And if we could advance to Page 2, is your signature on  
18 Page 2?

19 A. It is.

20 Q. And how about the number that appears there at the bottom,  
21 what's that?

22 A. That's my badge number. It's directly below my signature.

23 Q. How about the signature that's above your signature and  
24 badge number?

25 A. That's Mr. Heath's.

1 Q. And you witnessed him sign it?

2 A. I did.

3 Q. Now, you said there was some writing at the end that was  
4 not yours. Can you explain where that is?

5 A. Yes, it's right above his signature. It begins about in  
6 the middle of the page and then ends at his signature.

7 Q. And who wrote that portion?

8 A. Christopher Heath.

9 Q. So going back to Page 1 of Government's Exhibit 12, are  
10 these the questions that you asked, at least some of the  
11 questions that you asked Mr. Heath?

12 A. It is. The first part you'll see the question that I  
13 asked, and then the indent would be his response.

14 Q. So if you could just go through the statement for us,  
15 Detective, and explain what happened as you were preparing  
16 this.

17 A. So my first question to him was, Why did you come to  
18 Pennsylvania? And his response was, To deliver marijuana. My  
19 next was, How much? He stated, I don't know how much was in  
20 the truck. And I said, Whose truck was it in? And his  
21 response was, Mine. I said, How did it get there? And he  
22 stated, All three of us put it in.

23 And then I asked, Whose weed is in the truck? Weed is  
24 street terminology for marijuana. He stated, Some of it was  
25 given to me. My next question was, Who were you going to

1 deliver it to? And he stated he didn't know.

2 Q. Now, if I can stop you for a minute. The question about  
3 how did the drugs get in there, and the response was, All three  
4 of us put it in, in your conversation with him, did he explain  
5 who "all three of us" was?

6 A. He did.

7 Q. And who did he indicate that was?

8 A. He stated it was the original person which I was  
9 interviewing, Tyler Long, as well as the other person that we  
10 had in custody, Ryan Falsone.

11 Q. Okay. So I think I interrupted you at, Who knew the person  
12 in Pa. to deliver it to?

13 A. And his response was, Tyler, as in Tyler Long. And then my  
14 next question was, Did he arrange for this? Mr. Heath's  
15 response was, I don't know. My next question was, What were  
16 you going to get for driving it out here? And his response  
17 was, \$100,000. I asked him, Did you already receive any  
18 payments? And his response was, I was loaned 10,000 before we  
19 left.

20 Q. Moving on to Page 2.

21 A. I asked him, Who gave you that money? He stated, Tyler  
22 loaned it to me. My question was, How much weed was given to  
23 you to bring to Pennsylvania? Mr. Heath's response was, I  
24 believe 65 pounds. My question was, Have you made trips for  
25 Tyler in the past? His response was, Yes, with Tyler. I asked

1 if it was always marijuana, and he said, Yes, never anything  
2 else. And then I asked him, Why were you driving the marijuana  
3 from California to Pennsylvania?

4 Q. Now, the response to that question -- up until this point,  
5 has everything been in your handwriting?

6 A. It was.

7 Q. The response to that question, is that the response that's  
8 in his handwriting?

9 A. It is.

10 Q. And can you just read the response that's in Mr. Heath's  
11 handwriting?

12 A. In 2013, shortly after becoming a narcotics officer in  
13 California, I was investigating a local marijuana cultivator  
14 with ties to Michoacan, question mark, SP, for spelling,  
15 cartel. I received a threat from an associate of the cartel to  
16 stop my investigation.

17 The threat was reported to my department, but nothing  
18 further was done. Approximately six months later I was  
19 approached by someone who claimed to be associated with my  
20 original target. And then it stops there.

21 Q. In either the first portion of your interview with  
22 Mr. Heath or the second, did you -- he mentions the cartel, at  
23 least one cartel in both phases of his interview. Right?

24 A. Yes.

25 Q. And did you note anything about his mention of the cartels?



1 A. Yes. I believe he mentioned it at least three times that I  
2 could recall during the interviews, and each time it appeared  
3 that he pronounced the name of the cartel differently three  
4 times.

5 Q. At the time you were interviewing Mr. Heath had the trucks  
6 involved in the delivery already been searched?

7 A. I believe the second time that I was interviewing him, I  
8 believe they had been searched by that point.

9 Q. During your -- during both phases of your interview of  
10 Mr. Heath, did he ever tell you that he was in Pennsylvania in  
11 his capacity as a law enforcement officer?

12 A. No.

13 Q. Were you involved in the search of the trucks at all?

14 A. No.

15 Q. How about in cataloging any of the evidence?

16 A. I did help with taking some photographs of the marijuana  
17 packages, as well as comparing some of the money that was found  
18 to the official funds which we had mailed out.

19 Q. At some point did you need to compile a list of the various  
20 strains of marijuana that were in the packages?

21 A. Yes.

22 Q. Were you tasked with doing that, or was that someone else's  
23 responsibility?

24 A. It was Detective Shearer's responsibility. I just helped  
25 him with it.

1 Q. Who actually wrote the list?

2 A. Detective Shearer.

3 Q. Now, you mentioned that you had some involvement in  
4 comparing the serial numbers from cash. Was that cash taken  
5 from Mr. Heath?

6 A. No.

7 Q. Where did that cash come from?

8 A. It came from Tyler Long.

9 Q. From his person or his vehicle?

10 A. That I'm not sure.

11 Q. And what were you comparing it with?

12 A. We were comparing the money that was found in his  
13 possession to the money which we had mailed out from York to  
14 California.

15 Q. And did you find any serial numbers that matched?

16 A. Yes, many.

17 MS. TAYLOR: Your Honor, if I could have the court's  
18 indulgence for just a moment. Your Honor, I would ask for the  
19 admission of Government's Exhibit 12, which was the written  
20 statement.

21 THE COURT: Ms. Ulrich, any objection to 12?

22 MS. ULRICH: No, Your Honor.

23 THE COURT: Twelve is admitted.

24 MS. TAYLOR: And those are all the questions I have.

25 THE COURT: Ms. Ulrich, questions for this witness?

1                   MS. ULRICH: Yes, Your Honor.

2                                   CROSS-EXAMINATION

3 BY MS. ULRICH:

4 Q. Detective Schauer, you said prior to this December 28th  
5 date, you had sent out \$7,000 to California. Is that right?

6 A. Yes, ma'am.

7 Q. And that \$7,000, that was for marijuana that had already  
8 been shipped to Pennsylvania via the mail. Correct?

9 A. That's correct.

10 Q. Okay. And that 7,000 was shipped to Tyler Long. That's  
11 who received the 7,000. Is that right?

12 A. Yes.

13 Q. In fact, what you were just talking about is on  
14 December 28th, when Mr. Long was searched, they found, I think,  
15 about \$5,000 cash on him. Is that right?

16 A. Yes.

17 Q. And some of that \$7,000 was part of that money that was  
18 found on Mr. Long. Is that right?

19 A. Yes.

20 Q. And Ms. Taylor was asking you about the serial numbers  
21 matching. So the jury understands, when you sent the \$7,000  
22 out, you recorded the numbers on each of the bills you sent  
23 out. Is that right?

24 A. That's right.

25 Q. And you do that because if you ever recover money, you can

1     compare and say, oh, this was the controlled buy money we sent  
2     for those drugs. Right?

3     A. Yes, ma'am.

4     Q. And in this particular case, lo and behold, you do get some  
5     of that recorded money, serial number recorded money back,  
6     don't you?

7     A. Yes.

8     Q. And it was on Tyler Long?

9     A. Correct.

10    Q. In fact, you will agree Tyler Long was the connect with  
11    your informant in York, wasn't he?

12    A. Yes, he was.

13    Q. The informant and Mr. Long were doing the texting back and  
14    forth, weren't they?

15    A. Yes.

16    Q. Now, were you part of the seizure of the cellphones and the  
17    pictures that were taken off the cellphones?

18    A. I prepared the search warrant for the cellphones.

19    Q. And you obviously reviewed reports, you've seen some of the  
20    screenshots that came off Mr. Long's phone and texts that were  
21    sent to the informant. Correct?

22    A. Yes.

23    Q. And I think, and you can correct me if I'm wrong, one of  
24    those texts from Mr. Long to the informant said, hey, don't  
25    discuss any details of this in front of these two guys I'm

1 with, didn't it?

2 A. Yes.

3 Q. In fact, why don't I just show it to you instead of  
4 guessing here. I'm going to show you what's been marked as  
5 Defense Exhibit 139. Okay. That came off, I take it,  
6 Mr. Long's phone or the informant's phone?

7 A. The informant's phone.

8 Q. And this is Tyler Long saying, okay, I don't want to talk  
9 no details in front of these two guys. Is that right?

10 A. Yes.

11 Q. Now, on the 28th, you said you were there when these two  
12 trucks arrived with marijuana. Is that right?

13 A. Yes.

14 Q. And when you approached, you said Mr. Heath was by the  
15 silver, the silver van. Correct?

16 A. Silver truck, yes.

17 Q. Silver truck. And that's where, of course, all the  
18 marijuana was. The marijuana was in the bed of that truck,  
19 wasn't it?

20 A. Yes.

21 Q. And, of course, both trucks, were they searched at the  
22 scene?

23 A. No.

24 Q. Now, when you -- you were the one, I think, that pulled  
25 Mr. Heath out. I think you said that you read him his Miranda

1 rights?

2 A. I read him his rights, yes.

3 Q. And it's your testimony today that he -- at that time he  
4 didn't say, hey, I'm a sheriff with Yuba County?

5 A. No, not at that time, no.

6 Q. He didn't say, hey, there's a gun in my car?

7 A. No, he did not.

8 Q. There was no discussion at that point, all that happened is  
9 you're saying you read him his Miranda rights?

10 A. Yes.

11 Q. And the next contact you had with Mr. Heath then was at the  
12 station?

13 A. Correct.

14 Q. Now, going back to the scene, his truck was searched at the  
15 scene, wasn't it?

16 A. No.

17 Q. I'm sorry, you did say that. They were taken -- nothing  
18 was taken out of these trucks at the scene?

19 A. We didn't take anything out of the trucks at the scene.

20 Q. What do you mean by "we"? Did somebody?

21 A. Yes.

22 Q. Who?

23 A. Mr. Heath and Ryan Falsone were unloading bags of marijuana  
24 from the truck.

25 Q. Okay. And that's fair enough. But I mean after they were

1 arrested, you're saying nobody took anything out of the trucks?

2 A. That's correct.

3 Q. Well, let me -- actually, going back to the scene, what you  
4 just said, you said that Mr. Heath and Mr. Falsone were taking  
5 marijuana out of the truck. Right?

6 A. Yes.

7 Q. Now, you weren't there when that happened, though? Right?

8 A. No.

9 Q. And when you got to the scene, you didn't see Mr. Heath  
10 with a gun, did you?

11 A. With a gun?

12 Q. Yeah.

13 A. No.

14 Q. In fact, he didn't pull out a gun and say, hey, I got this  
15 guys, no worries, I have a gun on me, did he?

16 A. No.

17 Q. And there was no gun laying out in plain view, was there?

18 A. No.

19 Q. In fact, the gun was found in the cab or the front of the  
20 truck. Is that right?

21 A. Yes.

22 Q. And it was found in a suitcase in the front of the truck,  
23 wasn't it?

24 A. Yes.

25 Q. It wasn't found in the bed of the truck with the marijuana,

1 was it?

2 A. No.

3 Q. Now, but you -- did you search, are you the one that  
4 located that gun initially?

5 A. No.

6 Q. But you know that's where it was found, in a suitcase in  
7 the truck?

8 A. Yes.

9 Q. And when did you learn, by the way, that there was a gun in  
10 that truck?

11 A. Probably before I interviewed him the second time.

12 Q. Okay. So you knew there was a firearm in the truck before  
13 you talked to Mr. Heath, you say, the second time. Is that  
14 right?

15 A. Yes.

16 Q. You didn't ask him anything about the firearm, did you?

17 A. No.

18 Q. And, of course, there was -- he didn't say, hey, you know,  
19 I brought that gun to protect the drugs, did he?

20 A. No.

21 Q. I brought that gun just in case anything went wrong and  
22 somebody tried to steal the drugs, did he?

23 A. No.

24 Q. There was just no conversation whatsoever about that  
25 firearm after he was arrested and after you knew about the gun.



1 Is that right?

2 A. That's right.

3 Q. Now, Detective Schauer, you said you have been, I think, a  
4 police officer since 2003?

5 A. Yes.

6 Q. And you carry guns. Right?

7 A. Yes.

8 Q. And what kind of guns do you carry?

9 A. I carry a Glock.

10 Q. Is that on duty or off duty?

11 A. Both.

12 Q. Okay. And let's talk about that. You carry a Glock on  
13 duty, but as a police officer, you also carry a Glock off duty.  
14 Correct?

15 A. Correct.

16 Q. Okay. And are there regulations that you have to follow  
17 that are in place about carrying firearms off duty?

18 A. Yes.

19 Q. And, okay, so -- and that is -- is it York County?  
20 Springettsbury?

21 A. Yes, ma'am.

22 Q. You work for Springettsbury. So Springettsbury has rules  
23 about what you have to do in order to carry a firearm off duty.  
24 Right?

25 A. Correct.

1 Q. And let me say, what are some of those rules? Well, I  
2 shouldn't say that. Let me take that back. I'm a little all  
3 over the place right here. For instance, you have to get it  
4 certified?

5 A. You, as a person, have to be qualified, meaning that you  
6 qualify to shoot that particular firearm accurately.

7 Q. Thank you. That's the word I'm looking for. I'm sorry, I  
8 said certified. I meant qualified. You have to get qualified  
9 to use your off-duty firearm. Is that right?

10 A. That's correct.

11 Q. And so how often do you have to do that?

12 A. It goes by department, department. Our department is twice  
13 a year.

14 Q. And when you say "qualified," can you explain to the jury  
15 what it means? What do you have to do to get qualified to  
16 carry that gun off duty?

17 A. To qualify with a firearm, there are daytime and nighttime  
18 qualifications. Essentially you're shooting at a target, and  
19 you're required to put so many bullets on target in order to  
20 qualify.

21 Q. And as long as you follow those qualifications then, you  
22 have the blessing of the department to carry that gun off duty.  
23 Correct?

24 A. Yes.

25 Q. Now, when you carry your gun off duty, you carry it when

1 you're taking care of, you know, personal business. Right?

2 A. Yes.

3 Q. And when you carry that gun -- how often would you say you  
4 carry your gun off duty?

5 A. A lot.

6 Q. And that's normal for law enforcement officers, isn't it?

7 A. Yes.

8 Q. And you said that the -- that each department kind of has  
9 their own regulations, like each department, about what you  
10 have to do to qualify. Is that right?

11 A. Yes.

12 Q. I'm going to show you what's been marked as Defense Exhibit  
13 143. And I know that you haven't seen this before, have you?

14 A. No.

15 Q. This is the Yuba County Sheriff Department policy. Similar  
16 to what you were just telling us about Springettsbury, you have  
17 a policy. And I want you to go to -- I had that page. Hold  
18 on. Could you go to Page 3. Okay. So down below on Defense  
19 Exhibit 143, you see where it says 306.37?

20 A. Yes.

21 Q. And it says, Authorized off-duty firearms?

22 A. Yes.

23 Q. And it says there, The carrying of firearms by members  
24 while off duty is permitted by the sheriff but may be rescinded  
25 should circumstances dictate, and it says, For example,

1 administrative leave. Members who choose to carry a firearm  
2 while off duty based on their authority as peace officers will  
3 be required to meet the following guidelines. Do you see that  
4 there?

5 A. I do.

6 Q. Okay. And the first one is, They may use his or her duty  
7 firearm or personally-owned firearm that is carried in  
8 accordance with this policy. Let me see. I'll skip through  
9 some of this. Okay. It says, of course, in (B), The firearm  
10 shall be carried concealed at all times and in such a manner as  
11 to prevent accidental, unintentional cocking, discharge, or  
12 loss of physical control. Do you see that?

13 A. I do.

14 Q. Is that similar to the policy at Springettsbury?

15 A. Yes, ma'am.

16 Q. And, (C), It will be the responsibility of the member to  
17 submit the firearm to the firearms instructor for inspection  
18 prior to being personally carried. Thereafter, the firearm  
19 shall be subject to periodic inspection by the firearm  
20 instructor. Is that similar to yours at Springettsbury?

21 A. Yes, ma'am.

22 Q. It says, Prior -- (D), Prior to carrying any off-duty  
23 firearm, the member shall demonstrate to the firearms  
24 instructor that he/she is proficient in handling and firing the  
25 firearm and that it will be carried in a safe manner. That is

1 similar to Springettsbury, isn't it?

2 A. Yes.

3 Q. And I think that's what you testified to this jury that's  
4 kind of what you guys have to do, you've got to get qualified.  
5 Okay. The member will successfully qualify with the firearm  
6 prior to it being carried. Do you see that that's (E)? Do you  
7 see that there?

8 A. Yes.

9 Q. Okay. (F), Member shall provide written notice of the  
10 make, model, color, serial number, and caliber of the firearm  
11 to the firearms instructor, who will maintain a list of the  
12 information. That's (F). Is that similar to your requirement?

13 A. Yes.

14 Q. That you have to provide the make, model?

15 A. Yes.

16 Q. And do you see at (I)? Do you see (I) there?

17 A. I do see (I).

18 Q. It says, When armed, deputies shall carry their badges and  
19 Yuba County Sheriff Department identification cards under  
20 circumstances requiring possession of such identification. Do  
21 you see that there?

22 A. I do.

23 Q. Is that similar to Springettsbury?

24 A. Yes, ma'am.

25 Q. So when you're carrying your off-duty gun, you, too, have

1 to carry your badge or identification card showing that you're  
2 a police officer with Springettsbury. Is that right?

3 A. That's correct.

4 Q. Could we go to Page 6. And here are some guidelines on  
5 storage at home. Do you see that?

6 A. I do.

7 Q. And I'm not going to -- well, let's go through it. It  
8 says, Members shall ensure that all firearms and ammunitions  
9 are locked and secured while in their homes, vehicles, or any  
10 other areas under their control. Do you see that?

11 A. I do.

12 Q. Obviously because you want to keep them inaccessible to  
13 children and others who should not have access. Is that right?

14 A. That's right.

15 Q. Is that -- I would assume that's similar to what you have  
16 to do at Springettsbury?

17 A. Yes.

18 Q. And 306, Page 9, if we could. And here we've got -- do you  
19 see down below 306.10?

20 A. Yes.

21 Q. Carrying firearms out of state?

22 A. I see that.

23 Q. And it says there, Qualified, active full-time deputies of  
24 this department are authorized to carry a concealed firearm in  
25 all other states subject to the following conditions. And you

1 see it has a bunch of conditions there?

2 A. Yes.

3 Q. Do you also have guidelines you have to follow for carrying  
4 your Glock out of state?

5 A. I don't believe so.

6 Q. And (A) says, The deputy shall carry -- this particular  
7 policy says, The deputy shall carry his or her Yuba County  
8 Sheriff Department identification card whenever carrying such  
9 firearms. Do you see that?

10 A. I do.

11 Q. So these, like you've already said, these policies are very  
12 similar, if not identical, to what you have to follow to carry  
13 your Glock off duty?

14 A. Yes.

15 Q. Okay. I'm going to -- now, have you seen the gun that was  
16 recovered? I assume you've seen the gun that was recovered.  
17 Right?

18 A. I did.

19 Q. It was a Glock 23, Serial Number GMW477. You agree with  
20 that?

21 A. Yes.

22 Q. Okay. I'm going to show you what's been marked as Defense  
23 Exhibit 141. And, of course, I know you haven't seen this.  
24 This is Yuba County Sheriff's Department firearms training  
25 record, and you see that's for a C. Mark Heath. Correct?

1 A. Yes.

2 Q. And that reminds me, you said when you approached him at  
3 the car, he identified himself as Christopher Heath?

4 A. He might have identified himself as Christopher Heath, Mark  
5 Heath, I'm not sure, but it wasn't the person I was looking  
6 for.

7 Q. Right. He goes by Mark Heath, doesn't he?

8 A. Yes.

9 Q. Okay. And here we have this Yuba County Sheriff's  
10 Department firearms training record in the name of C. Mark  
11 Heath. Right?

12 A. Yes.

13 Q. And that's dated, it looks like, September 19th of 2004?

14 A. Yes.

15 Q. And that refers to the Glock 23, .40 caliber with the  
16 Serial Number GMW477. Do you see that?

17 A. Yes.

18 Q. Okay. And it says below in the comments, Delivered  
19 effective -- it looks, fire -- I can't read that all. But  
20 that -- you would agree that that is -- in 2004 he presented  
21 that, and this is the training record qualifying him to carry  
22 that?

23 A. Yes, ma'am.

24 Q. And that's the same gun that was found on December 28th,  
25 2015. Correct?



1 A. Yes.

2 Q. So we know that he's had that gun at least since 2004.

3 Correct?

4 A. Yes.

5 Q. And I'm going to go to the next page. Here's another one.  
6 It says, Mark Heath. Now, this one is dated August 10th, 2005,  
7 and, again, you see it says the same gun, the Glock 23, .40  
8 caliber, GMW477?

9 A. Yes.

10 Q. And that's August 10th, 2005. Is this similar to the  
11 qualification records that you get filled out in  
12 Springettsbury?

13 A. It's similar, yes.

14 Q. All right. Can we go to the next page. This one is,  
15 again, dated September 28th, 2005. Do you see that?

16 A. Yes.

17 Q. And, again, it's the same gun, the Glock 23, .40 caliber,  
18 the same serial number of the gun that was found in 2015?

19 A. Yes.

20 Q. Okay. Next page. And this is part of the qualification  
21 form that's dated June 20th, 2006, and, again, do you see that  
22 it's -- well, it's in his name, first off. You see that.  
23 Right?

24 A. Yes.

25 Q. And it says it's a handgun. Right?

1 A. Yes.

2 Q. And you see it's a personally-owned gun. Do you see that?

3 A. Yes.

4 Q. And it's the same gun we're talking about, the GMW, serial  
5 number, 477, Glock 23, .40 caliber. Correct?

6 A. Yes.

7 Q. Okay. Next page. The same thing, September 19th, 2006.

8 And not to belabor the point, but then, again, there we see a  
9 qualification form going back to September of 2006 for the same  
10 gun that you found in 2015?

11 A. Yes.

12 Q. Next page. Here again, the same thing, it's a firearms  
13 training record, January 23rd, 2007, Mark Heath, and, again,  
14 once again, qualifying the same gun, the Glock 23, .40 caliber.  
15 Do you see that?

16 A. I do.

17 Q. And that was in 2007. Okay. Next page. And this one is  
18 September 13th, 2007. Again, a training record for the same  
19 gun that was found in 2015, the Glock .40 caliber?

20 A. I do see that, yes.

21 Q. Okay. Next page. And now we move forward to 2010. Again,  
22 we have a training record. Once again, in 2010, he's now  
23 qualified the same gun that you found in 2015. Do you see  
24 that?

25 A. I do.

1 Q. Okay. Next page. Again, now, 2012, it looks like  
2 February 23rd, 2012, it looks like once again he qualifies the  
3 same gun you found in 2015?

4 A. Yes.

5 Q. Next page. And now it looks like -- it looks like -- now  
6 that's 2015. Do you see that, December 22nd, 2015?

7 A. Yes.

8 Q. Okay. So that is actually just six days before you find it  
9 on December -- or somebody finds it on December 28th, 2015?

10 A. Yeah.

11 Q. And, once again, he has taken that to the county sheriff's  
12 department, qualified, and this is the record showing the same  
13 gun that was found on December 28th that he was permitted to  
14 carry by the Yuba County Sheriff's Department. Do you see  
15 that?

16 A. I do.

17 Q. Thank you.

18 MS. ULRICH: Your Honor, before I forget, I would just  
19 move to admit Defense Exhibits 141 and 143.

20 THE COURT: All right. Are you moving 139, as well?

21 MS. ULRICH: Yes, Your Honor, yes. Thank you.

22 THE COURT: 139, 141, and 143, any objection?

23 MS. TAYLOR: No, Your Honor.

24 THE COURT: Those exhibits are admitted.

25 BY MS. ULRICH:

1 Q. Do you know the officer who did recover the gun out of the  
2 suitcase? Do you know who that was specifically?

3 A. Bruckhart.

4 Q. Bruckhart?

5 A. Um-hum.

6 Q. And are there pictures of the gun in the suitcase?

7 A. I don't know.

8 Q. And this, of course, you say, was found at the department  
9 because that's where the searches took place?

10 A. Yes, ma'am.

11 Q. And there were a lot of pictures taken of the drugs,  
12 weren't there?

13 A. I believe so, yes.

14 Q. I mean, that's what you do, you take pictures of the  
15 evidence that you seize in a case. Right?

16 A. Yes.

17 Q. Because it's important, on a day like this, for jurors and  
18 other people to see what it is you had retrieved. Correct?

19 A. Yes.

20 Q. And it becomes important where things are found. Right?

21 A. It does.

22 Q. And how they're found. Is that right?

23 A. It is.

24 Q. So that's why you take photographs of these things?

25 A. Yes.

1 Q. And you're saying there may be photographs of the gun in  
2 the suitcase, but you just don't have personal knowledge of  
3 that?

4 A. That's correct.

5 Q. Okay. But that's something that they would have done,  
6 right, they would have taken pictures of the gun in the  
7 suitcase?

8 A. No.

9 Q. Not necessarily?

10 A. No.

11 Q. Because why? There was nothing obviously wrong with the  
12 gun. Right?

13 A. I don't know the reasoning.

14 Q. Okay. And there were two loaded magazines found. Right?

15 A. I believe so, but I don't know for a hundred percent sure.  
16 I didn't find them.

17 Q. And you don't know if any pictures were taken of the two  
18 loaded in the suitcase?

19 A. I don't know.

20 Q. Now, you testified in another matter, at a grand jury, it  
21 looks like in March of 2016. Is that right?

22 A. Yes.

23 Q. And they asked you -- you were asked, what was the  
24 approximate weight of the marijuana contained in Mr. Heath's  
25 truck, and you said 30,800 grams. Do you recall that?

1 A. Yes.

2 Q. And the 30,800 grams, what does that come out to in terms  
3 of kilos then?

4 A. I believe it's 30.

5 Q. Okay. So you testified at a grand jury that what you  
6 believed was removed from the truck was about 30 kilos of  
7 marijuana. Correct?

8 A. Correct.

9 Q. Just a few things about the statement, Mr. Heath's  
10 statement you testified a lot to. You said it was dramatic,  
11 and I think you even put in there -- you could correct me if  
12 I'm wrong -- almost like he was in shock, is that right, that  
13 he had been arrested?

14 A. I guess you could use that word.

15 Q. And he did tell you, he did admit to you that he assisted  
16 in delivering the marijuana to York, Pennsylvania. Correct?

17 A. Yes.

18 Q. But he told you that he did not know who they were  
19 delivering the marijuana to. Is that right?

20 A. That is.

21 Q. And, in fact, that is true, it was Tyler Long who was  
22 delivering -- I mean who had the connection in York, as you  
23 stated earlier. Correct?

24 A. Yes.

25 MS. ULRICH: That's all I have. Thank you.

1                   *THE COURT:* Anything else for the witness?

2                                 REDIRECT EXAMINATION

3       BY MS. TAYLOR:

4       Q. Detective, Ms. Ulrich just asked you a question about the  
5 marijuana weight. Can you explain how you came up with that  
6 weight?

7       A. I believe it was a figure which the Pennsylvania State  
8 Police crime lab had.

9       Q. And do you know how the lab would have come up with that  
10 weight?

11                   *MS. ULRICH:* Objection, Your Honor. I don't believe  
12 he would have knowledge of how the lab report was completed,  
13 done. That would be way outside of his area of knowledge.

14                   *MS. TAYLOR:* Well, Your Honor, Ms. Ulrich asked him  
15 about his grand jury testimony. I'm asking him what the basis  
16 of that testimony was. And if it was based on the lab report,  
17 he should be able to --

18                   *THE COURT:* All right. I'll allow him to answer.

19       BY MS. TAYLOR:

20       Q. Was your testimony in the grand jury based on the lab  
21 report?

22       A. It would have either been based on the lab report or  
23 Detective Shearer weighing the marijuana prior to grand jury.  
24 I did not personally weigh the marijuana.

25       Q. Did you ever talk with the chemists about what they

1 actually tested or weighed, the Pennsylvania state chemists?

2 A. I know they took a sample.

3 MS. ULRICH: Your Honor, he's speculating, so I'm  
4 objecting, and it's hearsay.

5 THE COURT: Sustained.

6 BY MS. TAYLOR:

7 Q. Ms. Ulrich asked you some questions about Mr. Heath's Yuba  
8 County Sheriff's Department employment. When you were talking  
9 with him for the total of, let's say, a little under two hours,  
10 did he ever tell you that he was in Pennsylvania acting in his  
11 capacity as a police officer, not dealing drugs?

12 A. No.

13 Q. Can you show him Defense Exhibit 143, and Page 3, the  
14 306.37. This is the section that Ms. Ulrich showed you.

15 A. What section do you want me to look at?

16 Q. Starting at the very bottom, 306.37, do you see that  
17 portion --

18 A. I do.

19 Q. -- that talks about authorized off-duty firearms?

20 A. I do.

21 Q. And going to the next page, do you recall Ms. Ulrich's  
22 questions about -- going through the Section (A) through (H) or  
23 (I)? These are the policies from the Yuba County Sheriff's  
24 Department. Do you recall those questions?

25 A. I do.



1 Q. Just directing your attention to the very first section  
2 where it indicates that while off duty, based on their  
3 authority as police officers, did you see anything in there  
4 while Ms. Ulrich was reviewing that with you that talks about  
5 Mr. Heath's ability to carry his firearm while he's acting as a  
6 peace officer and a drug dealer?

7 A. I do not see that anywhere.

8 Q. And I won't belabor it by going through the other sections  
9 of the sheriff's department manual, but in any of the sections  
10 that she went through, did you see anything in there that  
11 talked about his ability to carry off duty while acting as a  
12 deputy sheriff and a drug dealer?

13 A. No, I did not.

14 Q. When you spoke with Mr. Heath on December 28th, do you  
15 recall some questions about if he was getting paid anything?

16 A. I do.

17 Q. And if he had gotten any advance payments?

18 A. I do.

19 Q. What did he tell you initially?

20 A. He told me that he was to -- he did receive \$10,000 prior  
21 to leaving California, and this was a loan or a down payment  
22 from Tyler Long prior to leaving California coming to  
23 Pennsylvania.

24 Q. That was his response, but did he have a different answer  
25 initially, or was his answer consistent the whole time?

1 A. I don't recall. I believe there was, but I don't recall.

2 Q. Would it help if you took a look at your report?

3 A. It would.

4 MS. TAYLOR: May I approach, Your Honor?

5 THE WITNESS: Okay. After reading my report, it does  
6 refresh my memory.

7 BY MS. TAYLOR:

8 Q. When you first asked him if he had gotten any advanced  
9 payments, what was his initial answer?

10 A. He initially told me no. And then I asked him if he was  
11 telling me the truth, based on my conversations with another  
12 subject, and he then told me about the \$10,000 that he received  
13 prior to leaving California.

14 MS. TAYLOR: Those are all the questions I have, Your  
15 Honor.

16 THE COURT: Anything else for the witness?

17 MS. ULRICH: No, Your Honor.

18 THE COURT: All right. Thank you. You may step down.  
19 Government's next witness.

20 MS. TAYLOR: Your Honor, at this time the government  
21 would call Sergeant Travis Shearer.

22 TRAVIS SHEARER, called as a witness, having been duly sworn  
23 or affirmed, testified as follows:

24 COURTROOM DEPUTY: For the record, please state your  
25 full name.

1           *THE WITNESS:* Travis Shearer.

2           *COURTROOM DEPUTY:* Could you spell your last name,  
3 please.

4           *THE WITNESS:* S-h-e-a-r-e-r.

5           *COURTROOM DEPUTY:* Thank you. You may have a seat.

6                                 DIRECT EXAMINATION

7 BY MS. TAYLOR:

8 Q. Good afternoon, sir. Could you tell the jurors how you're  
9 employed?

10 A. I'm a sergeant with the Penn Township Police Department  
11 down in York County.

12 Q. And how long have you been with Penn Township?

13 A. Almost 12 years now.

14 Q. Are you -- or back in December of 2015, were you affiliated  
15 with any task force?

16 A. Yes, from June of 2012 until April of last year I was  
17 assigned full-time duty to the York County Drug Task Force. In  
18 that duty, I was a sworn special county detective authorized to  
19 conduct narcotics investigations throughout York County.

20 Q. I don't know if you can see over the monitor and the  
21 podium, but do you recognize anybody sitting over at the  
22 defense table?

23 A. Yes, the gentleman in the teal green shirt and blue tie.

24 Q. And who is that?

25 A. Mr. Heath, Christopher Mark Heath.

1 Q. And what do you recognize him from?

2 A. An individual who I was involved in a case that I worked  
3 undercover on.

4 Q. Was that back in -- involving December, 2015?

5 A. Yes, it did.

6 Q. Was that a case that you worked in conjunction with  
7 Detective Schauer?

8 A. Yes, we worked the case together.

9 Q. Now, you mentioned that you worked in an undercover  
10 capacity. Is that correct?

11 A. That is correct.

12 Q. Your undercover role, did that occur on December 28th of  
13 2015?

14 A. Yes, it did.

15 Q. Explain to the jury what happened on that particular date  
16 in terms of your involvement.

17 A. Okay. In my involvement, we had an investigation that led  
18 us to believe there would be a quantity of marijuana being  
19 shipped to specifically York County, Pennsylvania, within the  
20 area of West Manheim Township.

21 Through that investigation, we determined that -- when  
22 the date and time that it should arrive at the location. At  
23 that point I was assigned the undercover for the operation. As  
24 the undercover, I was in plain clothes. I was unshaven. I  
25 didn't look as a police officer during that time period.

1           My specific duties were to meet with the confidential  
2 informant. At that time I would search the informant and their  
3 vehicle for any drugs or contraband, which I did not find.  
4 Once we got to the meet location, I did search the rooms at the  
5 area of the residence and also quickly searched the perimeter  
6 of the house to ensure that there were no drugs or contraband  
7 located in the area, and I did not find anything.

8           And then at that point I stayed with the confidential  
9 informant, they stayed within my view and basically within  
10 arm's reach of me the entire time while we -- the informant  
11 conducted text conversations and a short phone conversation  
12 with the individual that was to be delivering or was scheduling  
13 the delivery of the marijuana. And I remained with that  
14 individual until the subject showed up with the marijuana.

15 Q. Now, you were expecting the marijuana delivery to occur to  
16 a residence. Right?

17 A. That is correct.

18 Q. And you stayed with the informant at that residence the  
19 entire time?

20 A. Yes, I did.

21 Q. About what time of day were you expecting the delivery to  
22 occur?

23 A. We were expecting, based off of the text conversations, it  
24 was going to happen around 2330, 2350 hours, which is 11:30,  
25 11:50 at night.

1 Q. The weather that particular day, what was the weather like?

2 A. It was rainy, it was like a drizzle, steady rain throughout  
3 that whole day and the night.

4 Q. Did the delivery actually arrive?

5 A. Yes, it did.

6 Q. How did it arrive?

7 A. Two vehicles pulled into the driveway of the residence we  
8 were located at. The first vehicle was a white F150 pickup.  
9 The second vehicle was a silver pickup truck. F250 I believe  
10 it was. And I walked down to the second vehicle.

11 At that time the driver of the vehicle stepped out. I  
12 made contact with the driver, who was Mr. Heath, who is seated  
13 over there. We briefly spoke about the weather, how it was  
14 raining and I was glad it wasn't snowing, asked if they ran  
15 into bad weather, which he advised it wasn't bad.

16 At that point we opened the individual's -- Mr. Heath  
17 opened the back of the vehicle, which is where I saw that the  
18 packages which I believe contained the marijuana were located.

19 Q. Once the -- now, you're referring to the back of the  
20 vehicle. Are you talking about the --

21 A. The bed of the pickup truck.

22 Q. Once the tailgate of the truck was opened, what happened  
23 next?

24 A. Once the tailgate was opened, one of the individuals stated  
25 that we were to remove the packages -- inside the bed of the

1 truck were garbage bags and black duffel bags, pretty large  
2 black duffel bags. When those bags were opened, inside were  
3 additional garbage bags tied in a knot.

4 Inside there I could feel that there was a large  
5 package of vacuum-sealed marijuana inside each package, at  
6 which point we were instructed to put ten of the packages into  
7 our garbage bags. So we were to unload the vehicle, count ten  
8 for each garbage bag that we loaded, and we put those bags into  
9 my vehicle.

10 Q. Now, you said you were instructed to do that. Who was  
11 giving you those instructions?

12 A. That was Mr. Long, Tyler Long.

13 Q. So you had indicated that Mr. Heath had gotten out of his  
14 truck, but there was another truck?

15 A. Yes.

16 Q. How many people were in that?

17 A. There were two individuals in the first truck, the white  
18 truck.

19 Q. Okay. And who did those two people turn out to be?

20 A. The driver of the white truck was Tyler Long, and the  
21 passenger of the truck was Ryan Falsone, I believe it's  
22 pronounced.

23 Q. And by this point when you are unloading the packages at  
24 the back of Mr. Heath's truck, are Mr. Long and Mr. Falsone --  
25 they're out of the other truck, as well?

1 A. They are out of the truck, and they are assisting in --  
2 Mr. Tyler -- or Mr. Long, Tyler Long, was actually helping  
3 count the bags as they were coming out. Mr. Falsone was right  
4 there at the rear of the truck with Mr. Heath, myself, and the  
5 informant as we were unloading into garbage bags.

6 Q. Now, in terms of at the residence, were you the only law  
7 enforcement officer there?

8 A. In the vicinity of the residence, there were law  
9 enforcement officers to the rear of the residence in some  
10 vehicles, abandoned vehicles in the back of the residence.  
11 They were there as a rear security team, but they were not  
12 visible.

13 Q. So what happened after you unloaded the bags?

14 A. The first bag that I loaded I put nine in because I thought  
15 it felt like the bag would rip at that point. I took that bag  
16 to my vehicle, opened the rear hatch of it, threw the bag in.  
17 At that point I waited for the informant to come over to my  
18 vehicle with their bag which they had placed ten in.

19 At that point I had the informant, directed them with  
20 me to behind the engine block of my vehicle. At that time I  
21 hit the door locks on my vehicle, which caused the lights to  
22 flash which was the signal for the arrest teams to move in.

23 Q. And what were you waiting for to give that signal?

24 A. Two things. First and foremost, I wanted to verify that it  
25 was marijuana that was being delivered, and, number two, I



1 wanted to get myself and the informant to the safest position I  
2 possibly could for the arrest teams to move in.

3 Q. When you gave that signal and flashed your lights, what  
4 happened?

5 A. The arrest teams from across the street and behind the  
6 residence moved in, took the three individuals into custody.  
7 The informant was placed in custody, as well as myself.

8 Q. Now, why were you placed into custody?

9 A. It's done for two reasons. Number one, it helps preserve  
10 the case. It doesn't lead on that I am involved in the  
11 planning or I'm actually a police officer at all. Number two,  
12 it provides safety for myself and for the informant.

13 Q. So obviously you wouldn't have been involved in the arrest  
14 of Mr. Heath or the other two individuals?

15 A. No, I was not.

16 Q. Were you actually taken back to the station?

17 A. I was. I remained on scene where the takedown took place,  
18 myself and the informant with a couple other officers. Once  
19 the three individuals that arrived to deliver the marijuana  
20 were gone and out of the area, we were both removed from the  
21 vehicle, unhandcuffed. I did re-search the informant, as  
22 procedurally I always do, to make sure there were no drugs or  
23 contraband on the informant. At that point then I was driven  
24 back to headquarters, the Penn Township's headquarters, to the  
25 station.

1 Q. Did you participate at all in any of the interviews of  
2 Mr. Heath or the co-defendants?

3 A. I did not.

4 Q. How about in processing or cataloging any of the evidence  
5 in the case?

6 A. I was present to process and catalog most of the evidence.

7 Q. Who would have helped you with that?

8 A. Detective Merwede.

9 Q. And what's his role?

10 A. He is one of the two detectives within our department. His  
11 role is, he's in charge of the evidence, the evidence room. He  
12 is one of the -- only one of two people in our department that  
13 has access to the evidence locker and is able to put the items  
14 into the computer, document, and maintain the storage of those  
15 items.

16 Q. When the evidence was collected in this case, was it turned  
17 over to you and Detective Merwede?

18 A. Yes, it was.

19 MS. TAYLOR: Your Honor, this might be an appropriate  
20 time, there is a stipulation in terms of Detective Merwede's  
21 testimony and the photographs.

22 THE COURT: Okay.

23 MS. TAYLOR: Detective Corey Merwede from West Hanover  
24 Township Police Department did take the photographs that will  
25 be offered as Government's Exhibits 5, 6, 13 through 27, and 30

1 through 34. Detective Merwede, who is the evidence custodian  
2 for the West Hanover Township Police Department, assisted  
3 Sergeant Travis Shearer in processing the evidence collected in  
4 this matter and did sign some of the evidence envelopes that  
5 you're going to see.

6 *THE WITNESS:* If I may, just one second, it's the Penn  
7 Township Police Department.

8 BY MS. TAYLOR:

9 Q. I'm sorry, it is Penn Township. So, Sergeant Shearer, I'm  
10 just going to -- let me ask you this, the gun that was  
11 recovered in this case, was it turned over to you?

12 A. Yes, it was.

13 Q. And how about the magazines?

14 A. Yes.

15 Q. What about the other things that were found in  
16 Mr. Heath's -- the console of Mr. Heath's truck, the badge and  
17 his wallet and ID and things, were those --

18 A. Yes, all of those items were turned over to me. I was at a  
19 desk inside the detective's office at that time.

20 Q. How about all of the drugs that were found in the back of  
21 the truck, how were those things removed?

22 A. They were all brought into the detective's office and  
23 placed on the floor. We did a very brief count, myself and  
24 Detective Merwede, of approximately what we had, and at that  
25 point it was immediately placed into the secured evidence

1 locker.

2 Q. Why don't we start with those photos. I'm going to show  
3 you what's been marked as Government's Exhibit 18. What's that  
4 a photograph of?

5 A. This is a photograph of the bags, plastic bags, garbage  
6 bags and the zipper bags, I should say, they are carbon zipper  
7 bags that contained the individual packages of marijuana that  
8 came from the rear of Mr. Heath's truck.

9 Q. And how about Government's Exhibit 19?

10 A. This picture shows one of the carbon bags which I opened  
11 up, and it shows that there are three individually wrapped  
12 packages there. You can see three garbage bags to the left and  
13 in the front of the black duffel bag.

14 And then all the way to the right you'll see a garbage  
15 bag that's torn open. And what you see there, that is the  
16 double vacuum-packed, sealed bag that contained the actual  
17 marijuana. So it shows the large bag, the in-between bags  
18 between the two, and then the actual packaged product in the  
19 third bag.

20 Q. So in Government's Exhibit 19, the smaller packages that  
21 are in the black garbage bags, did those come out of the larger  
22 black duffel bag?

23 A. Yes, they did.

24 Q. And then showing you what's in Government's Exhibit 20.

25 A. That's a closeup of the same photograph. And what you see

1 is, this is the bag that I tore open to show the contents.  
2 You're looking at a vacuum-sealed bag, much like used in meat  
3 processing and things like that.

4 The different coloration, you see the marijuana  
5 underneath, it's typically a bag, or this one was, a bag  
6 vacuum-sealed with the marijuana inside. A second bag was  
7 placed over that bag. Dryer sheets were placed in between,  
8 which, as you see, the color pattern change, and then that bag  
9 itself was sealed. So it was two vacuum-sealed bags.

10 Q. In processing or cataloging the evidence in this case, did  
11 you have any reason to actually open any of the vacuum-sealed  
12 bags of marijuana?

13 A. There were two bags that were opened, one of which was  
14 opened to do a field test, and the other bag that was opened  
15 was because it showed that there were other packages inside or  
16 some other type items inside. That was cut open to see exactly  
17 what it was.

18 Q. At some point were you -- did you unwrap all of the  
19 packages from the black garbage bags down to the vacuum-sealed  
20 bags?

21 A. Yes, yes, that was a few days afterwards.

22 Q. I'm showing you what's been marked as Government's Exhibit  
23 21. Do you recognize this?

24 A. Yes. This is actually me holding one of the vacuum-sealed  
25 bags that came out of the bigger black bags. I put a notecard

1 on, a number seven. That's what I had designated as bag seven  
2 when we were identifying each bag.

3 Then there's writing on it which shows the words  
4 "Green Crack" and three X's. At that point we assumed that  
5 that was the name of the variety or type of marijuana that was  
6 in it. But we were unsure exactly what each note said. There  
7 were multiple names and multiple bags with the same markings.

8 Q. For example, showing you what's been marked as Government's  
9 Exhibit 22, is that an example of what you were just referring  
10 to?

11 A. Yes, correct. These are from bag eight. These are three  
12 examples of the Black Lime with two X's. And those marks were  
13 on the bags as we unpackaged them.

14 Q. So these clear bags and the way they're packaged, is this  
15 the way the marijuana was packaged once you unwrapped it from  
16 the black garbage bags?

17 A. Yes. They were either in a black duffel bag or black  
18 garbage bag like in picture, I believe, 20 or 19. And then at  
19 that point each package, as you see three different packages  
20 here, each one of those was wrapped in a black garbage bag  
21 which was tied shut. You opened that bag, and then you had one  
22 of each of these in each bag, so there was multiple packaging  
23 for each small package.

24 Q. Showing you what's been marked as Government's Exhibit 23.  
25 Is this another example of one of the vacuum-sealed bags?

1 A. Yes. This is a bag that was marked "Sour Diesel," bag  
2 eleven.

3 Q. Now, you mentioned one bag that was cut open to see exactly  
4 what the contents were. I'm showing you what's been marked as  
5 Government's Exhibit 24. Do you recognize this?

6 A. Yes. This is what one of the bags contained. Obviously  
7 when we looked at the vacuum-sealed bag, we could see that  
8 there were various colors and other items in there. So we cut  
9 that bag open to see exactly what was in there, if it was  
10 another type of contraband or something like that.

11 It appeared that they were THC lollipops and some  
12 possible marijuana cigarettes and some different varieties of  
13 what was called medical marijuana. We were not exactly sure  
14 why that was there, if it was a sample or what the purpose was.

15 Q. But these are obviously much smaller quantities than -- in  
16 these smaller bags than what's in the larger vacuum-sealed bag?

17 A. Correct, yes, this was just a small, very small portion.

18 Q. At some point did you compile -- did you go through all of  
19 the bags, all of the black duffel bags, count all the packages  
20 and make a list of all the different variations, the named  
21 variations that were on the packages?

22 A. Yes, I did do that.

23 Q. And did you write out that list?

24 A. Yes, I did.

25 Q. I'm showing you what's been marked as Government's Exhibit

1 4. Now, that's just Page 1, but looking at Page 1, do you  
2 recognize that?

3 A. Yes, that's the list that I made.

4 Q. So that's -- is that your handwriting?

5 A. Yes, it is.

6 Q. So if you could just explain to the jury how you -- how the  
7 list is set up.

8 A. So what I did, under the first section, bag one, when we  
9 brought the bags in, we labeled each bag, bag one, bag two, bag  
10 three with duct tape and a marker. The reason to do that is  
11 because they all look the same, so we could distinguish what  
12 was bag one, bag two, bag three. So at the top you see bag  
13 one. Underneath you'll see five names, the Purple Kush,  
14 Blueberry Diesel, Larry OG, Big Kush. Those were the names of  
15 the variety or strain of the marijuana.

16 And then you'll see some have two, some have three  
17 X's, and I believe there's some that have one X. We were not  
18 sure exactly what that signified. And then in parentheses  
19 behind each name and X's, you'll see the number one, three,  
20 two. That's how many packages of each were in each bag. So of  
21 the Larry OG, triple X, there were actually three packages in  
22 bag one of that specific variety.

23 Q. So if we could just fast-forward to the last page of  
24 Government's Exhibit 4, your list does indicate that there are  
25 18 duffel bags?



1 A. Correct, duffel bags and some of which were actually just  
2 heavy garbage bags, but most of them were the duffel bags  
3 themselves.

4 Q. It was a combination of the duffel bags and the trash bags?

5 A. Correct.

6 Q. But each of them contained some combination of  
7 vacuum-sealed individual packages of marijuana with these  
8 different names on them?

9 A. Yes, that's correct.

10 MS. TAYLOR: Your Honor, we also have a stipulation  
11 regarding the Pennsylvania state lab report.

12 THE COURT: All right.

13 MS. TAYLOR: The lab report actually appears as  
14 Government's Exhibit 8. And the stipulation indicates that the  
15 suspected marijuana from the December 28th, 2015 seizure, which  
16 is now contained in 27 Drug Enforcement Administration evidence  
17 boxes and will be represented here by one sample box at  
18 Government's Exhibit 7, was submitted for testing and did  
19 contain the Schedule I controlled substance marijuana,  
20 according to Nicole Blascovich, a forensic scientist employed  
21 by the Pennsylvania State Police, Bureau of Forensic Services  
22 Laboratory.

23 Ms. Blascovich's results are documented in  
24 Government's Exhibit 8, the Pennsylvania State Police, Bureau  
25 of Forensic Services, Drug Identification Report.

1 BY MS. TAYLOR:

2 Q. How about any of the cash, did you assist Detective Schauer  
3 in cataloging any or comparing any cash that was seized?

4 A. Yes, we did. A few days later we sat down and compared the  
5 cash that was located on each individual subject of the three  
6 subjects that we arrested that night and compared that to the  
7 official funds that we had sent out previously in the case.

8 Q. And from the \$7,000 that was sent out, there was a  
9 significant amount seized from Mr. Long's truck that matched  
10 the serial numbers?

11 A. Correct. I can't remember the exact number. I believe it  
12 was like 2,049 or something like that, 2,014, \$2,014 worth of  
13 documented funds that were sent to California.

14 Q. You said that the gun and the magazines that were recovered  
15 were turned over to you for processing, as well. Right?

16 A. That's correct, to enter into the evidence.

17 Q. I'm going to show you what's been marked as Government's  
18 Exhibit 1 and 2.

19 MS. TAYLOR: Your Honor, may I approach?

20 THE COURT: You may.

21 BY MS. TAYLOR:

22 Q. The exhibit that's marked Government's 1, Sergeant, what is  
23 contained in that?

24 A. This is the handgun, a Glock handgun and a holster that was  
25 located in a suitcase in the rear seat of the silver F250,

1 Mr. Heath's vehicle.

2 Q. Now, you're not the officer who actually located it.  
3 Right?

4 A. No, I am not.

5 Q. And to make it a little bit easier, I'm showing you what's  
6 been marked as Government's Exhibit 13. Is that -- what is  
7 that a photograph of?

8 A. That is this same handgun holster and the magazines, which  
9 are in a different set of packaging.

10 Q. Government's Exhibit 2 --

11 A. That's correct.

12 Q. -- does that contain the two magazines?

13 A. That's the two magazines, yes.

14 MS. TAYLOR: I'm sorry, if I could have the court's  
15 indulgence for just a moment.

16 BY MS. TAYLOR:

17 Q. Sir, I'm going to show you what's been marked as  
18 Government's Exhibit 3.

19 MS. TAYLOR: Your Honor, may I approach?

20 THE COURT: You may.

21 BY MS. TAYLOR:

22 Q. Sir, what's contained in Government's Exhibit 3?

23 A. These are items that were removed from the vehicle being  
24 Mr. Heath's pickup truck. It's a Yuba County deputy sheriff's  
25 badge that was found in the center console. There's a small

1 brown wallet that contains two IDs from the State of California  
2 and a Yuba County Sheriff's Department identification badge.

3 There was a key which did fit the lock that closed up  
4 the tailgate of the pickup truck, and then a United States  
5 Marine Corps souvenir -- or a challenge coin, I believe they're  
6 called.

7 Q. And showing you what's been marked as Government's Exhibit  
8 14, is this a photograph of all the items you just described?

9 A. Yes, that's correct.

10 Q. Sir, I'm going to show you what's been marked as  
11 Government's Exhibit 5.

12 MS. TAYLOR: Your Honor, may I approach?

13 THE COURT: Yes.

14 BY MS. TAYLOR:

15 Q. In Government's Exhibit 5, Sergeant Shearer, essentially is  
16 it a bunch of paperwork?

17 A. Yes, it is. It's paperwork that was located within the  
18 glove depart -- glove compartment, I'm sorry, of the silver  
19 F250, Mr. Heath's vehicle.

20 Q. I won't ask you to go through all the paperwork, but is  
21 there one piece of paper in there that looks like it's from a  
22 Best Western hotel?

23 A. Yes, it's a crinkled piece of paper that has some writing  
24 on it. It appears to be some figures possibly that match the  
25 names of the packaging of marijuana that was located within the

1 pickup truck.

2 Q. I'm showing you what's been marked as Government's Exhibit

3 5. Is that a photo of the piece of paper you're holding in  
4 your hand?

5 A. Yes, that's the same.

6 MS. TAYLOR: Your Honor, if I could have the court's  
7 indulgence for just a moment.

8 BY MS. TAYLOR:

9 Q. Sir, I'm going to show you what's been marked as  
10 Government's Exhibit 7. And Agent Myers is going to take that  
11 up there for me. Now, I know that you're seeing that in  
12 packaging that is not -- that's not packaging that you did.  
13 Right?

14 A. That is correct.

15 Q. Do you know what's contained in that box, though?

16 A. This is one of the packages that contains some of the  
17 marijuana that was sent to the state police lab for analysis.

18 Q. Your department did not maintain custody, though, of all of  
19 the marijuana. Right? Ultimately, you turned it over to DEA?

20 A. That's correct.

21 Q. And there is a stipulation regarding this, but it was  
22 ultimately packaged in 27 DEA boxes?

23 A. Yes, that's my understanding.

24 Q. So that's just one of the 27?

25 A. Yes.

1 Q. And it's marked -- I believe it's Government's Exhibit 7.  
2 Right?

3 A. Yes, it is. That's correct.

4 Q. And can you open that?

5 A. Sure. I'm going to need a scissors or something. I'm not  
6 exactly sure how many are packed in this bag, but these are  
7 some of the bags that were located in the rear of the vehicle  
8 inside the black duffel bags and the black garbage bags we saw  
9 pictures of.

10 Q. At some point do you recall -- we saw a photograph of  
11 the -- of at least some of the bags, the outer bags stacked up.  
12 At some point do you recall a photograph being taken of all of  
13 the -- of those vacuum-sealed bags stacked up against a wall?

14 A. Yes, we did have one or two photos of that. One was at a  
15 press conference and one was within the detective's office.

16 Q. I'm showing you what's been marked as Government's Exhibit  
17 25. Is this a picture of the -- what's this a picture of?

18 A. This is a picture of all of the bags of marijuana in the  
19 detective's office at the Penn Township Police Department. On  
20 the right is Detective Schauer and on the left is myself.

21 Q. So that's you as you were back in 2015 --

22 A. Yes, that's correct.

23 Q. -- when you were working undercover operations?

24 A. Yes.

25 MS. TAYLOR: Your Honor, there is an additional

1 stipulation. It is with regard to the gun, and it does relate  
2 to Government's Exhibit 9.

3 *THE COURT:* Do you want to present it now?

4 *MS. TAYLOR:* Yes, Your Honor, with the court's  
5 permission. The Glock .40 caliber Model 23 semiautomatic  
6 pistol bearing Serial Number GMW477, which is Government's  
7 Exhibit 1, recovered from the silver Ford 250 truck on  
8 December 28th, 2015, was registered to Christopher Mark Heath.

9 The Firearms Trace Summary Report, which is  
10 Government's Exhibit 9, completed by Special Agent Ryan  
11 Anderson from the Bureau of Alcohol, Tobacco, Firearms and  
12 Explosives, establishes that Mr. Heath purchased that firearm,  
13 what is Government's Exhibit 1, on September 13th, 2004, and it  
14 remained registered to him from that date until his arrest date  
15 of December 28th, 2015.

16 And, Your Honor, at this time I'd ask for the  
17 admission of Government's 1 through 5, 7 through 9, 13 and 14,  
18 and 18 through 25.

19 *THE COURT:* Any objection, Ms. Ulrich?

20 *MS. ULRICH:* No, Your Honor.

21 *THE COURT:* They will be admitted.

22 *MS. TAYLOR:* Those are all the questions I have for  
23 Sergeant Shearer.

24 *THE COURT:* All right. Ms. Ulrich.

25 CROSS-EXAMINATION

1 BY MS. ULRICH:

2 Q. Sergeant Shearer, by the way, you've had a promotion,  
3 haven't you? Because you were patrolman in 2015, weren't you?

4 A. Correct.

5 Q. Okay. Congratulations on the promotion.

6 A. Thank you.

7 Q. Sergeant Shearer, you had testified that -- it looks like  
8 those bags are about -- packaged a pound each?

9 A. Approximately a pound to a pound and a half.

10 Q. And I think in the end it came out to 165 pounds -- or 165  
11 bags. Correct?

12 A. Correct.

13 Q. And now my math is not the best, but there's about -- like  
14 500 grams in a pound. Is that right? It's like .457 grams?

15 A. Approximately.

16 Q. Okay. So if you have -- if you do the math and you have  
17 165 bags, 165 bags each containing roughly a pound, and we  
18 don't know that each bag was absolutely a pound, that's about  
19 75 kilos of marijuana. Is that right?

20 A. I believe. I didn't do the math, but it sounds about  
21 right.

22 Q. I had to double-check that because my math isn't very good,  
23 either. Okay. Sergeant Shearer, then going back to December  
24 of 2015, you said you were the undercover. So you were  
25 actually present when these three individuals arrived. Is that



1 right?

2 A. Yes, I was.

3 Q. When Mr. Heath arrived, he was in the silver truck. Is  
4 that right?

5 A. Correct.

6 Q. Mr. Falsone and Mr. Long were in the white truck?

7 A. That is correct.

8 Q. And so you were there. Now, by the way, you, of course,  
9 you were with the informant. Right?

10 A. Correct.

11 Q. His name is like Chip Conrad, I think, Chip. Right?

12 A. Yes.

13 Q. So you're with him and these guys come, they jump out of  
14 the car, and you don't see Mr. Heath get out of the car with a  
15 gun, do you?

16 A. No.

17 Q. And Mr. Heath gets out of the car, and he doesn't say, hey,  
18 I got a piece in my car, just so you know, did he?

19 A. No, he did not.

20 Q. He didn't tell you or anyone at that scene that there was a  
21 gun in that truck at that point, did he?

22 A. No, he did not.

23 Q. And you did not know there was a gun in that truck when you  
24 were unloading the marijuana, did you?

25 A. No, I did not.

1 Q. Now, after -- you said after you were unloading the  
2 marijuana is when, of course, everyone came in, you're taken  
3 off the scene, then you end up back at the station. Correct?

4 A. That is correct.

5 Q. And I think what you said was, when you were back at the  
6 station then, you counted the bags. And I think you showed us  
7 your notes. Is that right?

8 A. The notes were from, like, two days later, two or three  
9 days later. We did an initial count that night just real quick  
10 and then secured everything in the locker.

11 Q. Okay. So you do an initial count that night, that night  
12 being December 28th, 2015. Correct?

13 A. Correct, to give an estimated number.

14 Q. And what was -- do you recall what your estimated number  
15 was that night?

16 A. No, I don't.

17 Q. Was it a lot different than what the actual count came out  
18 to?

19 A. I think it was less, I think because we were approximating  
20 that each bag contained so many, where as some bags contained  
21 more, some bags contained less. They weren't -- each big bag  
22 didn't contain, like, ten. Some had fifteen, some had twelve.  
23 We assumed a lot of them had ten, so we came up with a quick  
24 figure.

25 Q. And when did you nail it down, the number of bags?

1 A. That was a few days later when we were able to sit down and  
2 actually look through each bag --

3 Q. So --

4 A. -- and make a count.

5 Q. I'm sorry.

6 A. When we were able to make a count the day I made that list.

7 Q. Because I -- and I'm going to ask, of course, you charged  
8 these three individuals locally with distributing that  
9 marijuana. Is that right?

10 A. That is correct.

11 Q. And when I say "locally," they were charged in York County.  
12 Correct?

13 A. That's correct.

14 Q. And you completed an affidavit to support the charge,  
15 didn't you?

16 A. Yes, I did.

17 Q. And in that affidavit, you --

18 MS. TAYLOR: Objection, Your Honor, to the relevance  
19 of the local charges.

20 MS. ULRICH: It's the number of packages.

21 THE COURT: Is it foundational to the statement that  
22 he made?

23 MS. ULRICH: Yes, Your Honor.

24 THE COURT: Okay. I'll allow it.

25 BY MS. ULRICH:

1 Q. In that affidavit of probable cause, you note that there  
2 were approximately 122 packages of marijuana. Is that right?

3 A. That's correct.

4 Q. Now, when you were at the scene, you were taken, so you  
5 didn't search the cars there at the scene. Correct?

6 A. No, I did not.

7 Q. Did you search the cars later when they were taken to the  
8 station?

9 A. I did not, no.

10 Q. You weren't there at all?

11 A. I was at the station but did not search any vehicle.

12 Q. Because you were talking about these Best Western notes you  
13 referred to. That's Government Exhibit 5.

14 A. Yes.

15 Q. Do you need to see that again?

16 A. No, I have it.

17 Q. You made the comment that it was found in Mr. Heath's  
18 truck. Is that right?

19 A. Yes.

20 Q. But you didn't find it in Mr. Heath's truck, did you?

21 A. Nope, I did not.

22 Q. So you're saying somebody told you that. Correct?

23 A. Correct.

24 Q. Who told you that's where it was found?

25 A. Adam Bruckhart.

1 Q. And is he -- did he take pictures of where he found it, in  
2 which car? Are there any other pictures other than what we've  
3 seen here?

4 A. No, we didn't take pictures. As far as I know, they didn't  
5 take any pictures of the vehicle as they found items.

6 Q. And those Best Western notes, did you ever ask Mr. Long  
7 about those notes?

8 A. I had no conversation with Mr. Long.

9 Q. Or Mr. Heath. Is that right?

10 A. I spoke to Mr. Heath, but it was a very brief, brief  
11 conversation. It was not an interview.

12 Q. All right. And so you don't even know whose handwriting  
13 that's in, do you?

14 A. No, I do not.

15 Q. I'm going to pull that up again, Government Exhibit 5, our  
16 100. Okay, hold on. I'm going to call it Defense Exhibit 100.  
17 Okay. Now, there's a 65 and an XX. Correct?

18 A. Yes.

19 Q. Let's assume that's 65 bags. Right?

20 A. Okay.

21 Q. The XX, that indicates -- you may not know this, does that  
22 indicate who that 65 pounds belonged to, if you know?

23 A. I do not know.

24 Q. Okay. So we've got 65. You see that. Right?

25 A. Yes.

1 Q. And then we've got the number ten, the number eight, the  
2 number 32. Correct?

3 A. That's correct.

4 Q. And that comes -- that says 115. Right?

5 A. Yes.

6 Q. So that's 115 bags. Right?

7 A. Correct.

8 Q. And that's -- and times that by pounds, that comes out to  
9 how much? About 50, 60 kilos of marijuana? If that one  
10 hundred -- I'm sorry, I'm probably totally confusing you. I'm  
11 confusing myself at this point.

12 Let's assume for a minute that 115 refers to  
13 115 pounds of marijuana. Okay?

14 A. Okay.

15 Q. All right. So if that's 115 and let's say there's  
16 .457 grams in a pound, that comes out to what, 50, 60 kilos?  
17 Let me get a calculator. Let me do the math. Do you know what  
18 that is off the top of your head?

19 A. No.

20 Q. Okay. Let me do -- but you agree if that 115 is pounds, we  
21 times that by .457. Right? Right? Because that's how many  
22 grams are in a pound. Right?

23 A. Yes.

24 Q. Okay. Would you agree with me that comes out, if that is  
25 115 pounds, comes out to about 52 kilos of marijuana? Is that

1 right?

2 A. Would probably be about right.

3 Q. Now, going back to the scene a little bit -- and I think  
4 you testified to this. When you were at the scene, you said it  
5 was, in fact, Mr. Long, when you got out, who gave you guys the  
6 instructions. Is that right? Tyler Long?

7 A. I'm sorry, what was the question again?

8 Q. Going back to at the scene when these two trucks first  
9 arrived.

10 A. Okay.

11 Q. You testified that it was Mr. Long who gave instructions.  
12 Is that right?

13 A. That is correct.

14 Q. And it was Mr. Long who was counting the bags. Is that  
15 right?

16 A. Yes, that's correct.

17 Q. And it was, in fact, as you know, Mr. Long who was  
18 communicating with your informant, Chip Conrad. Is that right?

19 A. That's correct, as far as I knew, yes.

20 Q. And you work for York County? Did you say York County  
21 police?

22 A. I work for the Penn Township Police Department.

23 Q. Penn Township. Okay. And you've been a police officer for  
24 quite a long time. Is that right?

25 A. Almost 12 years.

1 Q. And in terms of carrying firearms, you carry guns on duty  
2 and off duty. Is that right?

3 A. Yes.

4 Q. And what kind of gun do you carry off duty?

5 A. A lot of times I carry a revolver.

6 Q. And are there specific regulations at Penn Township dealing  
7 with your carrying firearms off duty?

8 A. Not specifically one way or the other, no.

9 Q. But in carrying that revolver, you carry it for personal  
10 reasons and professional. Is that right?

11 A. Correct.

12 Q. And when you carry it personally, how often would you say  
13 that you happen to have that gun on you?

14 A. Probably 75, 80 percent of the time.

15 Q. It's not uncommon for law enforcement to carry their guns  
16 off duty, is it?

17 A. No.

18 *MS. ULRICH:* I have nothing further. Thank you.

19 *THE COURT:* Anything else for the witness?

20 REDIRECT EXAMINATION

21 BY MS. TAYLOR:

22 Q. Sergeant, Ms. Ulrich asked you some questions about whether  
23 it was Mr. Long who was communicating with the informant and  
24 Mr. Long who was counting the bags.

25 A. That is correct.



1 Q. But it was Mr. Heath who you saw get out of the truck that  
2 was loaded with all the marijuana?

3 A. Yes, the silver F250.

4 MS. TAYLOR: That's all I have, Your Honor.

5 THE COURT: All right. May the witness be excused?

6 MS. ULRICH: Yes, Your Honor.

7 THE COURT: Thank you. You may step down. Thank you,  
8 Sergeant.

9 THE WITNESS: Should the evidence stay up here?

10 THE COURT: Yes. Thank you. Counsel approach.

11 *(Discussion held off the record at sidebar regarding*  
12 *scheduling.)*

13 THE COURT: Jurors, we have another witness, but we  
14 concluded that because you worked so hard today without an  
15 afternoon break, we're going to call it a day here and bring  
16 that witness tomorrow morning.

17 The first day is always the longest and the hardest,  
18 so I'm going to ask Ms. Weida to escort you. I'd just ask one  
19 thing of you, and that is, keep with you the reminders that I  
20 gave you early in the case about your own conduct as jurors.  
21 It's so important that you keep an open mind until you've heard  
22 all of the evidence in the case.

23 The only way you can do that is to follow my  
24 instructions. Don't talk to anybody about the case. Just tell  
25 people at home that you're sitting on a case, you'll tell them

1 all about it on Wednesday. Okay? All right. Have a good  
2 evening. We'll see you back at 9:30.

3 *(Whereupon, the proceedings were adjourned at 4:40 p.m.)*

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1 CERTIFICATE OF OFFICIAL COURT REPORTER

2  
3  
4 I, Lori A. Shuey, Federal Certified Realtime Reporter, in  
5 and for the United States District Court for the Middle  
6 District of Pennsylvania, do hereby certify that pursuant to  
7 Section 753, Title 28, United States Code, that the foregoing  
8 is a true and correct transcript of the stenographically  
9 reported proceedings held in the above-captioned matter and  
10 that the transcript page format is in conformance with the  
11 regulations of the Judicial Conference of the United States.

12 Dated in Harrisburg, Pennsylvania, this 15th day of  
13 December, 2017.

14  
15 /s/ Lori A. Shuey

16 Lori A. Shuey  
17 Federal Certified Realtime Reporter  
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